

**PKEMRA IMPLEMENTATION: AN EXAMINATION OF  
FEMA'S PREPAREDNESS AND RESPONSE MISSION**

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**HEARING**

BEFORE THE

**SUBCOMMITTEE ON EMERGENCY  
COMMUNICATIONS, PREPAREDNESS, AND  
RESPONSE**

OF THE

**COMMITTEE ON HOMELAND SECURITY  
HOUSE OF REPRESENTATIVES**

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## **PKEMRA IMPLEMENTATION: AN EXAMINATION OF FEMA'S PREPAREDNESS AND RESPONSE MISSION**

**Tuesday, March 17, 2009**

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON EMERGENCY COMMUNICATIONS,  
PREPAREDNESS, AND RESPONSE,  
COMMITTEE ON HOMELAND SECURITY,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 10:03 a.m., in Room 311, Cannon House Office Building, Hon. Henry Cuellar [chairman of the subcommittee] presiding.

Present: Representatives Cuellar, Richardson, Cleaver, Titus, Rogers, and Cao.

Mr. CUELLAR. [Presiding.] Good morning. The Subcommittee on Emergency Communications, Preparedness and Response will come to order.

The subcommittee is meeting today to receive testimony regarding the FEMA implementation, examination of the FEMA's preparedness and response mission.

Good morning on behalf of the members of the subcommittee. Let me welcome the witnesses from the Department of Homeland Security inspectors general's office, the Government Accountability Office, the Federal Emergency Management Agency FEMA representative of the Mississippi—also, the representative of the Mississippi disability community, and the George Washington University's homeland security institute.

Today's hearing will examine the implementation of the Post Katrina Emergency Management Reform Act of 2006, the PKEMRA. The genesis of this—PKEMRA law can be traced to what we collectively call as one of the nation's most embarrassing episodes that we have had.

In August of 2005, the Hurricane Katrina affected more than a 500,000 people located within approximately 90,000 square miles, spanning over the states of Louisiana and Mississippi and Alabama, ultimately resulted in over 1,500 deaths and resulted in the largest natural disaster relief and recovery operation undertaken in the United States.

Hurricane Katrina revealed colossal inadequacy at the federal, at the state, at the local government levels to prepare for, respond to, and recover from a large-scale incident.

In response, Congress passed this act to address the shortcomings identified with the government's response to the storm.

Most notable, this act retained FEMA within the department and tasked it to lead it and support the nation's risk-based, comprehensive emergency-based management system of preparedness, of protection, and response, and recovery, and mitigation.

In doing so, Congress went ahead and reintegrated the preparedness and response and recovery operations into one entity, FEMA. In particular, this particular act made FEMA a distinct agency within DHS and placed restrictions on the secretary's authority to reorganize it.

This act directed the FEMA administrator to respond directly to the secretary of homeland security, and this act created a direct line between the FEMA administrator and the president during times of emergency.

I understand that there are those who have called for FEMA's removal from the department and would like to act as if Congress never passed this particular act. The fact of the matter is that enhancing the nation's capacity to respond to large-scale incidents should not be an "us-versus-them" battle.

We can choose to ignore the great strides that FEMA has made in their preparedness and response to the ice storms, to the fire, tornadoes, and floods since this particular act was enacted. We can choose to discount the reality that Congress—not once, but twice—decided to locate FEMA within the department. We did it with this particular act and with the Homeland Security Act of 2002.

Some may choose to dig in their heels regarding FEMA's location. I, however, will defer to the first responders community who has said that they need FEMA at DHS so they can be full partners to respond to the nation's emergencies.

These groups are—some of them are the Congressional Fire Services Institute, the International Association of Fire Chiefs, the International Association of Fire Fighters, the International Association of Chiefs of Police, the National Fraternal Order of Police, the National Sheriffs' Association, the National Troopers Coalition, and the National Volunteer Fire Councils.

In short, this committee will carry on with the people's work and conduct oversight into FEMA's implementation of this particular act.

Two weeks ago, this subcommittee held a forward-looking hearing and heard from a panel of witnesses that gave us their expertise on how public assistance from FEMA can be leveraged by state, local governments to expedite and make more efficient the recovery process.

Today, we are also looking ahead by examining the status of implementing this act and how this act is working to strengthen FEMA within the Department of Homeland Security and what suggestions they have to strengthen this act with authorizing legislation.

With that, I want to welcome the following witnesses.

Our first witness is Richard Skinner, the inspector general at the Department of Homeland Security. Mr. Skinner will discuss his February 11th memo to Secretary Napolitano, which centered on how this act strengthened FEMA within DHS and why it is in the nation's best interest for FEMA to remain at the department.

Next, the subcommittee will hear from William Jenkins, the director of Homeland Security and Justice, U.S. Government Accountability Office, GAO. Mr. Jenkins will explain the GAO's assessment of FEMA's implementation of this particular act.

Our third witness is Mr. Corey Gruber, acting deputy administrator at the National Preparedness Directorate at FEMA, will discuss FEMA's implementation of this act, as well as provide the subcommittee suggestions for legislation to improve FEMA's capacity under the law.

Our fourth witness is Ms. Mary Troupe, the executive director of the Mississippi Coalition of Citizens with Disabilities. Ms. Troupe will provide us with some suggestions about how to strengthen the disability coordinator office established under this particular act.

Our final witness is Mr. Daniel Kaniewski, deputy director of the Homeland Security Policy Institute at the George Washington University. Mr. Kaniewski will discuss how this particular act has restored FEMA's capacity to prepare for, respond to, and recover from large-scale events.

As the subcommittee receives the testimony from the panel, I want to note that a lot of time, energy, and resources have been invested in this particular act and in FEMA itself. So I am looking forward to testimony that illustrate to the American people that the investments in this particular act and FEMA benefit the nation as a whole.

With that, I want to thank the witnesses for coming today, and I look forward for a robust discussion centered on the forward vision of FEMA, DHS, and, indeed, our nation.

The chairman recognizes the ranking member of the subcommittee, the gentleman from Alabama, Mr. Rogers, for an opening statement.

Mr. ROGERS. Thank you, Mr. Chairman.

And I will thank the witnesses for being here. I know that this is not always convenient, and you put a lot of time, energy into these opening statements and preparing for these questions. So please know that your attendance and participation is valued and appreciated.

As you heard the chairman, today's hearing is going to be held on the Department of Homeland Security's implementation of the Post Katrina Emergency Management Reform Act, which became public law in 2006. The reforms in that law, in addition to the other reforms that DHS has implemented are helping to strengthen FEMA's preparedness and response capabilities, as well as to stabilize it within the department.

The Post Katrina Reform Act established FEMA as a distinct entity within DHS, created new leadership positions with clear requirements, brought new missions to FEMA, restored responsibility that had been removed, and enhanced FEMA's authority to prepare and respond to disasters.

I strongly feel, while more work remains to be done, FEMA has made significant progress over the last 2 years. For example, throughout the 2008 hurricane season, FEMA leveraged resources from other DHS operational components to prepare and respond.

TSA, CBP, Coast Guard and ICE conducted pre-event planning activities and post-event response activities. In the 2 weeks after

Hurricane Ike, FEMA coordinated DHS response operations and assigned 125 missions to other DHS components and federal agencies.

Now, of course, FEMA still has work to do. I am interested in hearing from the witnesses on how—we can continue to improve its overall performance by developing better logistics capabilities, training and performance standards for its employees, and a stronger financial management structure. It is important to look at ways FEMA can build more equal partnerships and enhance communications with states and localities, as well.

The Post Katrina Reform Act strengthened FEMA's regional office structure with heads of the 10 regional offices reporting directly to the FEMA administrator. I look forward to hearing from our witnesses on how we can continue to improve communications and coordination between FEMA regions and state and local emergency response organizations.

Thank you, Mr. Chairman. And I yield back.

Mr. CUELLAR. Thank you, Mr. Rogers.

Other members of the subcommittee are reminded that, under the committee rules, that opening statements may be submitted for the record.

I now welcome the panel of witnesses. Our first witness is Mr. Richard Skinner, who serves as the inspector general at the Department of Homeland Security.

Our second witness is William Jenkins, the director of the Homeland Security and Justice at the U.S. department of accountability office, GAO.

The third witness, again, members, is Mr. Corey Gruber, the active deputy administrator of the National Preparedness Directorate of FEMA.

And, of course, our fourth witness is Ms. Mary Troupe, the executive director of the Mississippi Coalition of Citizens with Disabilities.

And, again, our final witness is Mr. Daniel Kaniewski, the deputy director of the Homeland Security Policy Institute at George Washington.

So we are—again, we want to all thank you for being here with us. We are pleased to—you have taken your time, provided your testimony.

And without objections, members, the witnesses' full statements will be inserted in the record. And I will now ask each witness to summarize his or her statement for 5 minutes, beginning with Mr. Skinner.

**STATEMENT OF RICHARD SKINNER, INSPECTOR GENERAL,  
DEPARTMENT OF HOMELAND SECURITY**

Mr. SKINNER. Thank you, and good morning, Chairman Cuellar, Ranking Member Rogers, Congressman Cao. It is a pleasure to be here today, and I thank you for inviting me to participate in this very important hearing.

As you said, I previously submitted a formal statement for the record. And this morning what I would like to do is just recap some of the points I made in that statement.

First, I would like to say, in my opinion, FEMA is stronger today than any time in its history. This, I believe, is due to three events: first, the merger of FEMA into DHS in 2003; second, the lessons learned from Hurricane Katrina; and, finally, the passage of the Post Katrina Reform Act.

When FEMA merged into DHS in March 2003, I believe everyone will agree that DHS fumbled the ball in its treatment of FEMA. When it was transferred into DHS, FEMA was treated as a step-child. Its disaster preparedness responsibilities were bifurcated into natural disasters and terrorist acts.

Preparedness for acts of terrorism was removed outside of FEMA altogether. Funds and resources were siphoned off out of the agency to support programs aimed at preventing and protecting America against another terrorist attack, such as 9/11. In essence, the all-hazards approach to emergency management was abandoned.

It is also important to understand that FEMA brought with it its many material weaknesses. For example, it was not equipped to deal with catastrophe disasters. It did not have a national housing strategy. It was not prepared to handle acts of terrorists, such as pandemic flu or improvised nuclear explosives, and it did not have a strong management support function, acquisitions, logistics, financial management, or information technology.

As far back as 1992, when Hurricane Andrew devastated southern Florida, my office completed a number of reviews relating to FEMA preparedness and response operations. These reviews identified serious deficiencies in FEMA's disaster preparedness and response programs. Unfortunately, many of these weaknesses were never adequately addressed, contributing to many of the problems that FEMA experienced after Hurricane Katrina.

FEMA and the department have come a long way since then. And the impetus behind these improvements were the lessons learned from Hurricane Katrina and the passage of the Post Katrina Reform Act.

Hurricane Katrina put the spotlight on FEMA and exposed its many shortcomings preparing for and responding to a catastrophic-type event. The Department of Homeland Security, including FEMA, took the lessons learned from the response to Hurricane Katrina and, with the legislative mandates of the Post Katrina Reform Act, began forming the foundation for critical improvements necessary for the nation to prepare and respond to any disaster, natural or manmade. In other words, FEMA and the department has returned to the all-hazards approach to emergency management.

The Post Katrina Act not only set the tone for the important role that FEMA plays in the department in the nation's emergency management framework; it strengthened FEMA's position in the department and helped it enhance its preparedness and response functions, both structurally and operationally.

It is important to remember, however, that the act is less than 3 years old. FEMA is certainly making progress in implementing the provisions of the act, but major changes, such as those called for in the act, requires time.

Let me get back to why I believe FEMA's placement within DHS makes it a stronger organization. First, it is the wealth of resources

available to FEMA through the other DHS components. These connections create synergies that were never available to FEMA as a standalone agency or independent agency. In DHS, FEMA is coupled with components that have far-reaching responsibilities and capabilities.

And, Congressman Rogers, I believe you hit on these: The search-and-rescue capabilities of the Coast Guard; the satellite imaging capabilities at CBP, Customs and Border Protection; the law enforcement capabilities within Immigration and Customs Enforcement, ICE; and transportation capabilities that were provided by TSA, the Transportation Security Administration.

All these assets were deployed and used during FEMA's recent response to Hurricanes Ike and Gustav this past year. And the fact that FEMA and these components of DHS have an opportunity during times of rest to plan, train, and exercise together, and to build capabilities that are capable of crossing jurisdictions, allows it to have the kind of capabilities of support in an emergency that would not be the case had FEMA been a standalone agency.

To illustrate, prior to the establishment at DHS, Coast Guard and FEMA interaction was infrequent. In 2006, a number of joint exercises has increased 354 percent, from 13 in the years 1999 to 2000 to 59 in the years 2003 to 2006.

Another area of interconnectedness includes DHS's grant programs. Since Hurricane Katrina, FEMA now administers almost all of DHS's grants, both those focused on natural hazards and those focused on terrorism, as well as security programs, such as the Port Security Grant Program, Transportation Security Grant Program, and buffer security grant programs.

Pulling FEMA out of DHS would almost certainly disrupt the grants' function in the short term, and it could result in, once again, separating out emergency management grants from terrorist grants, which we know from experience leads to inefficiency, duplication and waste.

When DHS was created 5 years ago, 22 disparate agencies were merged into one large organization. These agencies brought into their mission—brought their missions, processes, systems and cultures and their own set of management challenges. Merging them into a single organization was a complex undertaking, as we all know, and this type of undertaking is not accomplished quickly.

Likewise, the Post Katrina Reform Act, enacted just a little less than—just a little over 2-1/2 years ago, brought major changes to DHS and to FEMA particular. These reforms have not had time to work. But I really believe and I firmly believe that they will work, if given a chance.

I was pleased to hear Secretary Napolitano say recently that DHS will take an all-hazards approach to risk management. She recognizes that while terrorism is and will continue to be a major concern within the department, it is not the only concern.

Under her leadership and with the continued oversight and support provided by the Congress, I am confident that the department and FEMA together, under one roof, will continue to mature and grow into a world-class organization.

Chairman Cuellar, this concludes my opening remarks. I would be happy to answer any questions that you or the committee may have.

[The statement of Mr. Skinner follows:]

PREPARED STATEMENT OF RICHARD L. SKINNER

Good morning Chairman Cuellar, Ranking Member Rogers, and members of the subcommittee. Thank you for inviting me to testify today about the *Post-Katrina Emergency Management Reform Act of 2006 (Post-Katrina Act)* and how implementation of the Act has strengthened the Federal Emergency Management Agency's (FEMA) position in the Department of Homeland Security (DHS) and has helped FEMA enhance its preparedness and response functions. For my testimony, I will draw primarily from a report recently released by my office titled, "FEMA: In or Out?" This report examines the arguments for why FEMA should remain a part of the department, but also outlines the arguments being made by some for making FEMA an independent agency.

Post-Katrina Emergency Management Reform Act of 2006

Recognizing FEMA's shortcomings in preparing for and responding to hurricanes Katrina and Rita in 2005, Congress passed the Post-Katrina Act in October 2006. The Act contained numerous provisions to help strengthen FEMA's position and capabilities. I would like to outline just a few of them here. But before I do, I want to highlight the enactment date of the Post-Katrina Act- October 4, 2006. This is just under two and a half years ago. FEMA is certainly making progress in implementing provisions of the Act, but major changes take time.

The Post-Katrina Act brought change to FEMA, both structurally and operationally. Some of the structural changes are absolutely critical to FEMA's success as a component of DHS. First, the Act specifies that the FEMA Administrator is "the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States." It also requires that the FEMA Administrator report directly to the Secretary of Homeland Security without having to report through another official. Both of these provisions set the tone for the important role that FEMA and the FEMA Administrator play in the Department and in the nation's emergency management framework.

Additionally, the Act requires that FEMA be maintained as a distinct entity within DHS, exempts FEMA from the scope of the secretary's reorganization authority, and affords FEMA specific protections from changes to its mission, including functional or asset transfers; and, the Act returned to FEMA many of its functions that had been moved into DHS' Preparedness Directorate. This last provision, in particular, addressed the concern that had been expressed by many in the emergency management community that preparedness and response functions were being separated under DHS, to the detriment of both FEMA and citizens who may face a disaster.

Responsibility for allocating and managing DHS grants is also now assigned to FEMA, a matter of importance when considering whether FEMA should remain a component of DHS. This question, "FEMA In or Out," is the subject of the rest of my statement.

**FEMA: In or Out**

How the federal government should engage with state, local and tribal partners in the realm of emergency management has been the subject of debate for at least the past 60 years.<sup>1</sup> Whether FEMA should be a part of DHS or whether it should be pulled out and made a stand-alone agency has been debated since the concept of a Department of Homeland Security was introduced, not post-9/11, but by the Hart-Rudman Commission earlier in 2001.

Congress debated the "FEMA In or Out" question, most notably, during consideration of two crucial pieces of legislation, the legislation that created the department, the Homeland Security Act of 2002, and the legislation passed in the wake of Hurricane Katrina, the Post-Katrina Act. In both instances, after much consideration and debate, Congress voted to include FEMA in DHS. There are good reasons for this decision, and I will outline some of them here, including the nation's current vulnerability to terrorism, the synergy and resources FEMA enjoys as part of DHS, and

<sup>1</sup> Henry B. Hogue and Keith Bea, *Federal Emergency Management and Homeland Security Organization: Historical Developments and Legislative Options*, Congressional Research Service (RL33369), June 1, 2006, p. 4.

the importance of avoiding the stovepiping of preparedness and response functions. But before I turn to these, let's look at what some are calling for regarding FEMA's placement in the government.

#### **Arguments for Making FEMA a Stand-Alone Agency**

Despite generally positive reviews of FEMA's performance in recent disasters, calls to return FEMA to its independent-agency status have been renewed. In November 2008, the U.S. Council of the International Association of Emergency Managers (IAEM-USA) formally adopted the position that FEMA's independent agency status should be restored, with the agency reporting directly to the President. The organization further urged that the FEMA Director/Administrator be included as a member of the President's Cabinet.

Don Kettl, a Professor of Political Science at the University of Pennsylvania, makes an interesting argument, suggesting that calls for FEMA's removal may be based on a faulty premise—that James Lee Witt transformed FEMA from a troubled agency to a successful one—under Witt, FEMA was independent—therefore, FEMA should be restored to independent status. Kettl points out, however, that FEMA did not always perform well in the past, even when it was an independent agency. FEMA was an independent agency when it was roundly criticized for its response to Hurricane Andrew in 1992. Problems were also recognized during the TOPOFF 2000 exercise, again while FEMA was an independent agency.<sup>2</sup>

Kettl suggests that Witt's success in managing FEMA flowed from his leadership abilities.<sup>3</sup> Restructuring FEMA in and of itself does not translate to better leadership. I will note that David Walker, when he was Comptroller General, also stated when discussing FEMA's placement in government, that it is leadership and resources that have more influence on the success of an agency.<sup>4</sup>

Those who would like to see FEMA removed from DHS are calling for three basic elements: (1) independent agency status, (2) including the FEMA Administrator in the President's Cabinet, and (3) giving the FEMA Administrator a direct line to the President.

Addressing the third element first, the FEMA Administrator already has a direct line to the President during a disaster. Congress recognized this shortcoming in the aftermath of Hurricane Katrina and legislated this relationship in the Post-Katrina Act. GAO, in its report being discussed today, found that the FEMA Administrator does give advice directly to the President during meetings.<sup>5</sup>

The critical thing to note here, however, is that having a direct line to the President does not necessarily equate to having the ear of the President. By most accounts, James Lee Witt did have the ear of President Clinton, but this likely stemmed more from his personal relationship with the President than from his status as FEMA Director. The Chairman of this committee, Mr. Thompson, pointed out in a recent letter to President Obama, that the Post-Katrina Act “assures that there will be direct access but it cannot assure that the relationship with the President will be strong or that the Administrator will have the president's confidence.”<sup>6</sup>

The second element, including the FEMA Director in the Cabinet, is a decision that cannot be legislated. While not defined in law, the Cabinet traditionally includes the Vice President and the heads of 15 executive departments. The President has the discretion to accord Cabinet-level rank to other officials. Currently, in addition to the heads of the 15 executive departments, Cabinet-level status has been given to the White House Chief of Staff, the Director of OMB, the United States Trade Representative, the Administrator of the Environmental Protection Agency, and the Director of the Office of National Drug Control Policy. Executives who do not currently have Cabinet-level status include the Director of the Central Intelligence Agency, the Administrator of the Small Business Administration, and the Administrator of the National Aeronautics and Space Administration. The Post-Katrina Act does explicitly state that the President “may designate the Adminis-

<sup>2</sup> Donald F. Kettl, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, National Emergency Management: Where Does FEMA Belong? June 8, 2006.

<sup>3</sup> *Ibid.*

<sup>4</sup> Aimee Curl, “Senate Panel Unlikely to Recommend Taking FEMA Out of DHS,” *FederalTimes.com*, March 15, 2006, available at <http://www.federaltimes.com/index.php?S=1598146>.

<sup>5</sup> Government Accountability Office, Letter to Congressional Requesters, Actions Taken to Implement the Post-Katrina Emergency Management Reform Act of 2006 (GAO-09-59R), November 21, 2008.

<sup>6</sup> Memorandum from Congressman Bennie G. Thompson to President-elect Barack H. Obama, Re: A Strong, Effective Federal Emergency Management Agency, December 19, 2008.

trator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters,” but Cabinet-level status, just like direct access, does not by itself lead to more or less success for an agency.

The first element of the argument, granting FEMA independent agency status, will not necessarily solve FEMA’s problems or address the concerns of those who would like to see FEMA removed from the Department of Homeland Security. I mentioned before that FEMA did not always perform well even when it was an independent agency. According to Kettl, “Structure matters. But leadership counts far more.”<sup>7</sup>

All of these elements—independence, Cabinet-level status, direct line to the President—and can have an impact on an agency, but I believe Comptroller General Walker was right in stating that the bigger impact comes from leadership and resources.

### **Arguments for Keeping FEMA in DHS**

#### ***Vulnerability to Terrorism***

Our past two presidents, Bill Clinton and George W. Bush, and the current U.K. Prime Minister, Gordon Brown, all had to deal with a major terrorist attack in their respective countries during their first year in office. While there have been no recent reports of a specific imminent threat, some argue that the United States faces an increased risk of a terrorist event during the first year of the new presidency.<sup>8</sup> Since last fall, then-Director of National Intelligence Mike McConnell,<sup>9</sup> then-Vice President-elect Biden,<sup>10</sup> and then-President-elect Obama have each made statements to this effect. Then-President-elect Obama said in an interview last November that it was “important to get a national security team in place, because transition periods are potentially times of vulnerability to a terrorist attack.”<sup>11</sup>

We simply cannot predict whether there will be a terrorist attack in this country in the next year. Given that there is an elevated risk of this happening, however, we must consider whether it makes sense to make major changes to our homeland security apparatus during this period.

I want to note here that the talk of removing FEMA from DHS generally focuses on the perceived benefits to FEMA—on which not all sides agree. What is not always included in the debate is consideration of the effect that FEMA’s removal would have on the department.

Since 2003, a number of support functions for the different components of DHS have been interwoven. These include financial management, information technology systems, and some procurement functions. A reorganization would impact not only FEMA, which would have to reconstitute itself as a stand-alone agency, but also DHS as a whole, which would have to adjust to losing an important component. Professor Kettl warned in 2006 that “FEMA has gone through a long and wrenching series of reorganizations. . . . Change for the sake of change could simply induce organizational whiplash and further destabilize an already unstable organization.”<sup>12</sup> John Harrald, co-director of the Institute for Crisis, Disaster, and Risk Management at The George Washington University, testified at a hearing that pulling FEMA out of DHS would mean a difficult transition period and the rewriting of doctrine and the redesign of systems, and warned that “natural hazards and terrorists are not going to wait for us to reorganize yet again.”<sup>13</sup>

#### ***Ongoing Reviews***

It is clear that removing FEMA from DHS at this point would cause considerable upheaval, to both FEMA and the department. Such action should not be taken without very careful consideration.

<sup>7</sup> Kettl, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, National Emergency Management: Where Does FEMA Belong? p. 3.

<sup>8</sup> Homeland Security Presidential Transition Initiative, *Protecting the Homeland from Day One: A Transition Plan*, Prepared by Third Way and the Center for American Progress and Action Fund, November 2008.

<sup>9</sup> Peter Bergen, “Safe at Home,” *The New York Times*, December 14, 2008.

<sup>10</sup> Michael Abramowitz, “Biden Warns World Will ‘Test’ Obama, Prompting McCain Response,” *The Washington Post*, October 20, 2008, available at [http://voices.washingtonpost.com/the-trail/2008/10/20/biden\\_warns\\_world\\_will\\_test\\_ob.html](http://voices.washingtonpost.com/the-trail/2008/10/20/biden_warns_world_will_test_ob.html).

<sup>11</sup> Don Gonyea, “Obama: Seamless Security Transition A Priority,” *Morning Edition*, November 17, 2008, available at <http://www.npr.org/templates/story/story.php?storyId=97078485>.

<sup>12</sup> Kettl, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, National Emergency Management: Where Does FEMA Belong?, p.2.

<sup>13</sup> John R. Harrald, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, National Emergency Management: Where Does FEMA Belong? June 8, 2006.

At this time, the Quadrennial Homeland Security Review (QHSR) is underway at DHS, and the first QHSR report is due in December 2009. This comprehensive review of the department was mandated by Congress in the *Implementing the Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53)*.

The National Academy of Public Administration has just begun an independent assessment of preparedness and response integration with a focus on FEMA's 10 regional offices, and will provide recommendations on the integration, synchronization, and strengthening of preparedness programs between FEMA and its regional offices.

Experts have cautioned that making major structural changes involving the Department of Homeland Security should only take place following a detailed strategic review and should not occur early in President Obama's term.<sup>14</sup> The formal recommendation of the Homeland Security Presidential Transition Initiative is that, "A decision to remove FEMA should be deferred until the completion of the Quadrennial Homeland Security Review in late 2009. Maintaining the status quo in the first year avoids unnecessary instability and confusion at a time of elevated risk. It also provides time for the new administration to consult with congressional leadership and build support for any major changes that may be contemplated within the QHSR process."<sup>15</sup>

#### **Synergy and Resources**

A primary benefit to FEMA of being part of the 200,000-plus person Department of Homeland Security is the wealth of resources available to FEMA through other DHS components. These connections create synergies that were never available to FEMA as a stand-alone agency. In DHS, FEMA is coupled with components that have far-reaching responsibilities and capabilities, including search and rescue, communications, law enforcement, intelligence, and infrastructure protection.

The Government Accountability Office (GAO) has cited areas of interconnectedness, including grants, through which Urban Area Security Initiative and State Homeland Security Program funding can be used for mass evacuation planning; interoperable communications; DHS Science & Technology expertise for the Equipment Standards Program; and a huge surge capacity of personnel that can be tapped in case of a disaster.<sup>16</sup> And in fact, FEMA did tap into DHS' vast personnel resources during last year's hurricane season.

Until DHS was formed, interagency planning for disaster response was not well-coordinated. In contrast, Admiral Thad Allen testified in 2006 that since DHS' creation, the relationship between the Coast Guard and FEMA has been greatly strengthened. Prior to the establishment of DHS, Coast Guard and FEMA interaction was infrequent. By 2006, however, the number of joint exercises had increased 354%, from 13 in the years 1999-2002 to 59 in the years 2003-2006.<sup>17</sup>

Another way FEMA and DHS mutually benefit from FEMA being part of the department, is the DHS components, including FEMA, have opportunities during "down times" to plan, train and exercise together and to build capabilities. These capabilities now span throughout DHS components and allow for better coordination when disaster strikes. Those joint capabilities were evidenced in recent disasters.

In the wake of Hurricane Katrina, the Coast Guard, the Transportation Security Administration (TSA), U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and the Secret Service were all vital players in the response and recovery effort.<sup>18</sup> More recently, in responding to Hurricanes Gustav and Ike, FEMA was supported by multiple components of the Department of Homeland Security. CBP provided security for the transit of life-sustaining goods and provided aerial assets that allowed surveying of damage. In the past, FEMA relied on DOD for aerial surveillance, which cost considerably more than using CBP. TSA supported 20 FEMA commodity distribution locations, augmenting FEMA staff with 366 additional employees in the field. The Coast Guard performed land, maritime, and air search-and-rescue missions. As Secretary of DHS, Michael Chertoff argued that when it is necessary for FEMA to quickly call upon other agencies, the quickest

<sup>14</sup> Homeland Security Presidential Transition Initiative, *Protecting the Homeland from Day One*, Introduction.

<sup>15</sup> *Ibid.*, p. 15.

<sup>16</sup> Government Accountability Office, Letter to Congressional Requesters, Actions Taken to Implement the Post-Katrina Emergency Management Reform Act of 2006.

<sup>17</sup> Admiral Thad W. Allen, FEMA's Placement in the Federal Government, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, June 8, 2006.

<sup>18</sup> Homeland Security Secretary Michael Chertoff, Building an Integrated Preparedness and Emergency Management System: The Case for Keeping FEMA Within the Department of Homeland Security, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, June 8, 2006.

way to accomplish this is not by reaching to other departments, it is when the Secretary can immediately order assistance from all of the elements and capabilities of the entire Department of Homeland Security.<sup>19</sup>

Finally, it is important to discuss DHS grants and their importance to the emergency management community. When FEMA initially joined DHS, many of its grants functions were transferred to other parts of DHS. Since Hurricane Katrina, FEMA administers almost all DHS grants, both those focused on natural hazards and those focused on terrorism. Pulling FEMA out of DHS would almost certainly disrupt grants function in the short term, and it could result in once again separating out “emergency management” grants from “terrorism” grants, which we know from experience leads to inefficiency, duplication, and waste. The synergies that have been realized in homeland security grants should be an important consideration when debating the merits of removing FEMA from DHS.

#### ***Preparedness and Response***

The well-recognized cycle of emergency management includes preparedness, response, recovery, and mitigation. This is true of all emergency management, whether for natural or manmade hazards. I like to think of these elements as a four-legged stool. Remove one of the elements, and the stool becomes unstable. Some would suggest that we need two stools—one labeled crisis management and one labeled consequence management. The problem is that we know from the past that this structure simply does not work well. It is evident in the “stovepipes” that existed prior to the creation of DHS.

Some in the emergency management community suggest that FEMA is involved with consequence management, dealing with the response, while the rest of DHS is focused on preventing or protecting against a response (crisis management). They suggest further that these different functions should be under different roofs. Former Secretary Cherargues, and I agree, that this “is a profound misunderstanding of how one plans and prepares and executes in the face of a possible emergency and an actual emergency because the truth is emergencies don’t come neatly packaged in stovepipes and if there’s any lesson we’ve learned in dealing with terrorism or dealing with any other crisis, it is that stove-piping is the enemy of efficient and effective response.”<sup>20</sup> Mr. Chairman, it is just common sense. We have tried stovepipes. They don’t work, and in fact they put us in a worse position when it comes to preparing for, preventing when possible, responding, and recovering from disasters. And it does not matter whether the disaster is a hurricane, a terrorist bombing, or the pandemic flu.

The Hart-Rudman Commission also warned against the stovepiping of crisis management and consequence management, saying it is “neither sustainable nor wise.”<sup>21</sup> The duplicative command structures that are fostered by this division lead to confusion and delay. I would add that this duplication wastes time, energy, and resources. Preparedness and response are fundamental to homeland security. If FEMA is removed, a duplicate agency would most certainly be created in DHS, because preparedness and response are so fundamental to DHS’ mission that it could not operate effectively without them.

Finally, on this topic let me point out that for local frontline first responders, there is no line between terrorist and non-terrorist hazards; first responders must focus on all-hazards-plus. The federal approach and structure should match this local approach.<sup>22</sup>

#### ***It Takes Years for a Complex Organization to Develop***

When DHS was created 5 years ago, 22 disparate agencies were merged into one large organization. These agencies brought their own missions, processes, systems, and cultures. Merging them into a single organization was a complex undertaking, and this type of undertaking is not accomplished quickly. GAO has reported that its work on mergers and acquisitions shows that successful transformation of a large

<sup>19</sup> Remarks by Homeland Security Secretary Michael Chertoff at Johns Hopkins University, December 3, 2008, available at [http://www.dhs.gov/xnews/releases/pr\\_1228482474306.shtm](http://www.dhs.gov/xnews/releases/pr_1228482474306.shtm).

<sup>20</sup> *Ibid.*

<sup>21</sup> The United States Commission on National Security/21st Century, *Road Map for National Security: Imperative for Change: The Phase III Report of the U.S. Commission on National Security/21st Century*, February 15, 2001, p. 20.

<sup>22</sup> Kettl, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, National Emergency Management: Where Does FEMA Belong? p. 7.

organization can take at least 5 to 7 years, even for organizational mergers that are less complex than DHS.<sup>23</sup>

As an example, GAO points to the creation of the Department of Defense. The most recent major DOD restructuring began 20 years ago with the *Goldwater-Nichols Act of 1986*, but DOD continues to face serious management challenges. DHS is only six years old, an infant in organizational development. Pulling FEMA out of DHS will take both FEMA and the department back years in development, impeding our progress in building a strong homeland security structure in this country.

The *Post-Katrina Act* was enacted just a little over 2 years ago, bringing major changes to DHS, and to FEMA in particular. These reforms have not had time to work, and restructuring now would only set the department and FEMA back further.

#### ***Success Depends on Leadership More Than Structure***

The success of an organization is often more about the organization's leadership than its structure. The Hart-Rudman Commission recognized this when first considering a restructuring of national security policy. "Organizational reform is not a panacea. There is no perfect organizational design, no flawless managerial fix. The reason is that organizations are made up of people, and people invariably devise informal means of dealing with one another in accord with the accidents of personality and temperament. Even excellent organizational structure cannot make impetuous or mistaken leaders patient or wise, but poor organizational design can make good leaders less effective."<sup>24</sup>

It is interesting to note that when people talk about FEMA's "successful years," these years are invariably linked with James Lee Witt. Credit for turning the organization around is generally ascribed to Witt personally, not to an outside force mandating reorganization. The President has announced his intent to nominate Craig Fugate as the next FEMA Administrator, and I believe this will provide a strong leader for the agency. Leaving FEMA in DHS will couple this important leadership with the considerable resources of the department.

#### **Conclusion**

In 2001, the Hart-Rudman Commission, addressing the topic of military intervention abroad, warned that in policymaking it is important to avoid the "CNN effect."<sup>25</sup> This admonition is all the more important today, when the country faces an increased threat of terrorism and has experienced a number of serious disasters over the past few years.

Just over 5 years ago, the approach to and structure for homeland security were completely revamped. Have things gone perfectly since? Clearly, the answer is no, but that is not enough justification to undertake a major reorganization that would have far-reaching effects, particularly before a careful study of the potential consequences can be carried out.

Former Secretary Chertoff has pointed out the dangers of thinking short-term, stating, "I would say that one of the lessons I've learned, maybe 'the' lesson I learned in the last eight years is we've had three major catastrophic events, 9/11, Hurricane Katrina, and the financial meltdown. In each case, the real nub of the problem was [that] leaders made decisions looking only at the short term and sacrificing the long term."<sup>26</sup>

Now is not the time to think short term, particularly when it comes to our homeland security. Terrorism is not a threat only in the short term, and natural disasters certainly are not, so we need to be thinking long term. Thinking long term requires giving the Department of Homeland Security the time any large organization needs to mature. Thinking long term means giving the reforms introduced by the Post-Katrina Act time to work. Thinking long term means resisting the "CNN effect" and ensuring that FEMA is positioned to continue as a vital component of our homeland security and emergency management infrastructure.

Chairman Cuellar, this concludes my prepared remarks. I would be happy to answer any questions that you or the Committee Members may have. Thank you.

<sup>23</sup> Government Accountability Office, Department of Homeland Security: Progress Report on Implementation of Mission and Management Functions (GAO-07-454), August 2007.

<sup>24</sup> The United States Commission on National Security/21st Century, *Road Map for National Security*, p. vi.

<sup>25</sup> The United States Commission on National Security/21st Century, *Seeking a National Strategy: A Concert for Preserving Security and Promoting Freedom: The Phase II Report on a U.S. National Security Strategy for the 21st Century*, April 15, 2000, p. 7.

<sup>26</sup> Remarks by Homeland Security Secretary Michael Chertoff at Johns Hopkins University, December 3, 2008.

Mr. CUELLAR. Thank you, Mr. Skinner.

At this time, I would like to recognize Mr. Jenkins to summarize his statement for 5 minutes.

**STATEMENT OF WILLIAM JENKINS, JR., DIRECTOR,  
HOMELAND SECURITY AND JUSTICE, U.S. GOVERNMENT  
ACCOUNTABILITY OFFICE**

Mr. JENKINS. Chairman Cuellar, Ranking Member Rogers, and other distinguished members of the subcommittee, I am pleased to be here today to discuss our work to identify and describe the actions FEMA and DHS have taken to implement the several hundred provisions of the Post Katrina Emergency Management Reform Act of 2006.

It is important to note that our number did not include assessing how effective these actions have been in improving the nation's preparedness and ability to respond to a catastrophic disaster. Rather, our objective was to provide a comprehensive catalogue of the actions taken to implement the act's many provisions.

The Post Katrina Act charges FEMA with leading and supporting the nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. That is a tall order.

Essentially, an effective national preparedness effort is designed to integrate and define what needs to be done, by whom, where, based on what standards, how it should be done, and how well it should be done. This requires comprehensive planning, coordination, and the effective integration of the actions and resources of many partners, both governmental and nongovernmental.

The many reports on the preparedness and response to Hurricane Katrina, including ours, essentially identified three broad areas that needed to be strengthened: leadership, capabilities and accountability.

We highlighted several key problem areas, including emergency communication, evacuations, logistics, mass care and shelter, planning and training, and human capital. The Post Katrina Act's provisions addresses each of these areas, as well as others, and FEMA has taken actions in each of these areas.

The act changed FEMA's organizational structure and responsibilities, enhanced its position and that of the FEMA administrator within DHS. Although FEMA and DHS have taken more actions to implement some of the act's provisions than others, they have taken at least some actions to implement each of the act's many provisions.

Implementing the number and magnitude of the changes required by the Post Katrina Act posed and continues to pose a significant challenge for FEMA. Although much has been done, much remains to be done.

Examples of work in progress but not yet completed include: the development and implementation of a comprehensive point-to-point logistics system; several key supporting documents for the national response framework, such as the partner guides for key federal and non-federal response leaders that were originally scheduled to be issued by June of last year; the operational supplements for the catastrophic and mass evacuation incident annex; a plan to be sub-

mitted to Congress for establishing and implementing a surge capacity force; and a revision of the target capabilities and defining key metric for them.

None of these tasks are simple, and all require stakeholder input and coordination. Between April and September of this year, we will be issuing reports on the national communication system, the national preparedness program, coordination among urban area security initiative area jurisdictions, and community preparedness.

Each of these are components of the robust emergency preparedness and response system for the nation that was envisioned by the Post Katrina Reform Act.

That concludes my statement, Mr. Chairman. I would be pleased to respond to any questions you or other members of the committee may have.

[The statement of Mr. Jenkins follows:]

PREPARED STATEMENT OF WILLIAM O. JENKINS

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to participate in today's hearing to discuss the efforts of the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS) to strengthen emergency management by implementing provisions of the Post-Katrina Emergency Management Reform Act of 2006 (Post-Katrina Act), which Congress enacted in October 2006 to address shortcomings in the preparation for and response to Hurricane Katrina.<sup>1</sup> My remarks today are grounded in our prior work on FEMA's and DHS's response to Hurricane Katrina and the actions they have taken to implement the Post-Katrina Act.<sup>2</sup> In September 2006, we identified leadership, capabilities, and accountability as elements that FEMA and DHS needed to strengthen to respond to catastrophic disasters. This testimony discusses these three elements in terms of our 2006 findings about select issues within the elements; provisions of the Post-Katrina Act that relate to those issues; the actions we reported in November 2008 that FEMA and DHS have taken to implement those provisions; and where possible, updates to these actions as of March 2009.

To conduct our 2006 work on Hurricane Katrina we visited the areas affected by Hurricanes Katrina and Rita—Alabama, Louisiana, Mississippi, and Texas—and interviewed the governors of those states and the mayor of New Orleans. We also interviewed senior federal officials. To conduct our 2008 work about actions to implement provisions of the Post-Katrina Act, we analyzed the text of the act and identified well over 300 discrete provisions within the legislation that called for FEMA or DHS action to implement requirements or exercise authorities. We reviewed agency documents and discussed the act's implementation with numerous senior level program officials at FEMA and DHS to identify the actions that had been taken. In March 2009, we consulted program officials about the status of select actions to provide updates in this statement.

We conducted our work in accordance with generally accepted government auditing standards. More detailed information on our scope and methodology appears in our published work.

This statement provides information about select actions related to our 2006 work on the response to Hurricane Katrina that FEMA and DHS have taken to implement the Post-Katrina Act. The actions described are drawn from our November

<sup>1</sup>The Post-Katrina Act was enacted as Title VI of the Department of Homeland Security Appropriations Act, 2007, Pub. L. No. 109-295, 120 Stat. 1355 (2006). The provisions of the Post-Katrina Act are codified in numerous sections of the U.S. Code. The applicable U.S. Code citations are included in this statement. The provisions of the Post-Katrina Act became effective upon enactment, October 4, 2006, with the exception of certain organizational changes related to FEMA, most of which took effect on March 31, 2007.

<sup>2</sup>The results of this work were included in products published from February 2006 through November 2008. GAO, *Emergency Preparedness and Response: Some Issues and Challenges Associated with Major Emergency Incidents*, GAO-06-467T (Washington, D.C.: February 2006); GAO, *Catastrophic Disasters: Enhanced Leadership, Capabilities, and Accountability Controls Will Improve the Effectiveness of the Nation's Preparedness, Response, and Recovery System*, GAO-06-618 (Washington, D.C.: September 2006); and GAO, *Actions Taken to Implement the Post-Katrina Emergency Management Reform Act of 2006*, GAO-09-59R (Washington, D.C.: November 2008).

2008 report and, where possible, March 2009 updates from program officials. As we reported in November 2008, for most of the provisions we examined, FEMA and DHS had at least preliminary efforts underway to address them. We also identified a number of areas that still required action, and noted that it was clear that FEMA and DHS have work remaining to implement the act.

### **Background**

On August 29, 2005, and in the ensuing days, Hurricanes Katrina, Rita, and Wilma devastated the Gulf Coast region of the United States. Hurricane Katrina alone affected more than a half million people located within approximately 90,000 square miles spanning Louisiana, Mississippi, and Alabama, and ultimately resulted in over 1,600 deaths.

Hurricane Katrina severely tested disaster management at the federal, state, and local levels and revealed weaknesses in the basic elements of preparing for, responding to, and recovering from a catastrophic disaster. Beginning in February 2006, reports by the House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, the Senate Homeland Security and Governmental Affairs Committee, the White House Homeland Security Council, the DHS Inspector General, DHS, and FEMA all identified a variety of failures and some strengths in the preparation for, response to, and initial recovery from Hurricane Katrina. Our findings about the response to Hurricane Katrina in a March 2006 testimony and a September 2006 report focused on the need for strengthened leadership, capabilities, and accountability to improve emergency preparedness and response.<sup>3</sup>

The Post-Katrina Act was enacted to address various shortcomings identified in the preparation for and response to Hurricane Katrina. The act enhances FEMA's responsibilities and its autonomy within DHS. FEMA is to lead and support the nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. Under the act, the FEMA Administrator reports directly to the Secretary of Homeland Security; FEMA is now a distinct entity within DHS; and the Secretary of Homeland Security can no longer substantially or significantly reduce the authorities, responsibilities, or functions of FEMA or the capability to perform them unless authorized by subsequent legislation. The act further directs the transfer to FEMA of many functions of DHS's former Preparedness Directorate. The statute also codified FEMA's existing regional structure, which includes 10 regional offices, and specified their responsibilities. It also contains a provision establishing in FEMA a National Integration Center, which is responsible for the ongoing management and maintenance of the National Incident Management System (NIMS)—which describes how emergency incident response is to be managed and coordinated—and the National Response Plan (NRP)—now revised and known as the National Response Framework (NRF). In addition, the act includes several provisions to strengthen the management and capability of FEMA's workforce. For example, the statute calls for a strategic human capital plan to shape and improve FEMA's workforce, authorizes recruitment and retention bonuses, and establishes requirements for a Surge Capacity Force.

The Post-Katrina Act extends beyond changes to FEMA's organizational and management structure and includes legislative reforms in other emergency management areas that were considered shortcomings during Hurricane Katrina. For example, the Post-Katrina Act includes an emergency communications title that requires, among other things, the development of a National Emergency Communications Plan, as well as the establishment of working groups within each FEMA region dedicated to emergency communications coordination. The act also addresses catastrophic planning and preparedness; for example, it charges FEMA's National Integration Center with revising the NRF's catastrophic incident annex, and it makes state catastrophic planning a component of one grant program. In addition, the act addresses evacuation plans and exercises and the needs of individuals with disabilities.

In November 2008, we reported the actions FEMA and DHS had taken in response to more than 300 distinct provisions of the Post-Katrina Act that we had identified. We also reported on areas where FEMA and DHS still needed to take action and any challenges to implementation that FEMA and DHS officials identified during our discussions with them. In general, we found that FEMA and DHS had made some progress in their efforts to implement the act since it was enacted in October 2006. For most of the provisions we examined, FEMA and DHS had at least preliminary efforts under way to address them. We also identified a number

<sup>3</sup> See GAO, Hurricane Katrina GAO's Preliminary Observations Regarding, Preparedness, Response and Recovery, GAO-06-442T (Washington, D.C.: Mar. 8, 2006) and GAO-06-618.

of areas that still required action, and noted that it was clear that FEMA and DHS had work remaining to implement the provisions of the act. Throughout this statement, unless otherwise noted, the actions reported that DHS and FEMA have taken to address provisions of the Post-Katrina Act are drawn from our November 2008 report.

### **Leadership**

Our 2006 report noted that in preparing for, responding to, and recovering from any catastrophic disaster, the legal authorities, roles and responsibilities, and lines of authority at all levels of government must be clearly defined, effectively communicated, and well understood in order to facilitate rapid and effective decision making. We further noted that the experience of Hurricane Katrina showed the need to improve leadership at all levels of government to better respond to a catastrophic disaster. Specifically, we reported that in the response to Hurricane Katrina there was confusion regarding roles and responsibilities under the NRP, including the roles of the Secretary of Homeland Security and two key federal officials with responsibility for disaster response—the Principal Federal Official (PFO), and the Federal Coordinating Officer (FCO).

### **Updating the National Response Framework and Clarifying the Role of the FEMA Administrator**

The Post-Katrina Act clarified FEMA's mission within DHS and set forth the role and responsibilities of the FEMA Administrator. These provisions, among other things, required that the FEMA Administrator provide advice on request to the President, the Homeland Security Council, and the Secretary of Homeland Security, and that the FEMA Administrator report directly to the Secretary of Homeland Security without having to report through another official.<sup>4</sup>

As a result of the limitations in the NRP revealed during the response to Hurricane Katrina and as required by the Post-Katrina Act, DHS and FEMA undertook a comprehensive review of the NRP. The result of this process was the issuance, in January 2008, of the NRF (the name for the revised NRP).<sup>5</sup> The NRF states that it is to be a guide to how the nation conducts an all-hazards response and manages incidents ranging from the serious but purely local to large-scale terrorist attacks or catastrophic natural disasters. The NRF became effective in March 2008.

As reflected in the NRF and confirmed by FEMA's Office of Policy and Program Analysis and FEMA General Counsel, there is a direct reporting relationship between the FEMA Administrator and the Secretary of Homeland Security. According to officials in FEMA's Office of Policy and Program Analysis, the FEMA Administrator gives emergency management advice as a matter of course at meetings with the President, the Secretary of Homeland Security, and the Homeland Security Council.

The NRF also states that the Secretary of Homeland Security coordinates with other appropriate departments and agencies to activate plans and applicable coordination structures of the NRF, as required. The FEMA Administrator assists the secretary in meeting these responsibilities. FEMA is the lead agency for emergency management under NRF Emergency Support Function #5, which is the coordination Emergency Support Function for all federal departments and agencies across the spectrum of domestic incident management from hazard mitigation and preparedness to response and recovery.

### **Clarifying the Roles of the PFO and FCO**

We reported in 2006 that in response to Hurricane Katrina, the Secretary of Homeland Security initially designated the head of FEMA as the PFO, who then appointed separate FCOs for Alabama, Louisiana, and Mississippi. It was not clear, however, who was responsible for coordinating the overall federal effort at a strategic level. Our fieldwork indicated that the lack of clarity in leadership roles and responsibilities resulted in disjointed efforts of federal agencies involved in the response, a myriad of approaches and processes for requesting and providing assistance, and confusion about who should be advised of requests and what resources would be provided within specific time frames.

<sup>4</sup> See generally 6 U.S.C. §§ 313–14. For specific information on the Administrator's reporting relationship and role as principal advisor on emergency management, see 6 U.S.C. § 313(c).

<sup>5</sup> The Post-Katrina Act predated the NRF and referred to the NRF's predecessor, the NRP, which was then the name of the document that served as the nation's comprehensive framework for the management of domestic incidents where federal involvement was necessary. Because the Post-Katrina Act encompasses any successor plan to the NRP, it applies to the NRF just as it did the NRP. See 6 U.S.C. § 701(13). Therefore, this statement uses the term NRF, rather than NRP, in discussing any relevant Post-Katrina Act provisions and the status of their implementation, unless otherwise appropriate.

The Post-Katrina Act required that the Secretary of Homeland Security, through the FEMA Administrator, provide a clear chain of command in the NRF that accounts for the roles of the FEMA Administrator, the FCO, and the PFO.<sup>6</sup> According to the NRF, the Secretary of Homeland Security may elect to designate a PFO to serve as his or her primary field representative to ensure consistency of federal support as well as the overall effectiveness of federal incident management. The NRF repeats the Post-Katrina Act's prohibition that the PFO shall not direct or replace the incident command structure or have directive authority over the FCO or other federal and state officials. Under the NRF, the PFO's duties include providing situational awareness and a primary point of contact in the field for the secretary, promoting federal interagency collaboration and conflict resolution where possible, presenting to the secretary any policy issues that require resolution, and acting as the primary federal spokesperson for coordinated media and public communications.

According to DHS officials, at the time of our 2008 report, no PFO had been operationally deployed for any Stafford Act event since the response to Hurricane Katrina. DHS's appropriations acts for fiscal years 2008 and 2009 have each included a prohibition that "none of the funds provided by this or previous appropriations acts shall be used to fund any position designated as a Principal Federal Official" for any Stafford Act declared disasters or emergencies.<sup>7</sup> Our Office of General Counsel plans to address the implications of this funding prohibition in future work.<sup>8</sup>

According to the NRF, the primary role and responsibilities of the FCO include four major activities:

- representing the FEMA Administrator in the field and discharging all FEMA responsibilities for the response and recovery efforts under way;
- administering Stafford Act authorities, including the commitment of FEMA resources and the issuance of mission assignments to other federal departments or agencies;
- coordinating, integrating, and synchronizing the federal response, within the Unified Coordination Group at the Joint Field Office; and
- interfacing with the State Coordinating Officer and other state, tribal, and local response officials to determine the most urgent needs and set objectives for an effective response in collaboration with the Unified Coordination Group.

#### **Updating the Catastrophic Incident Annex and Supplement**

The Catastrophic Incident Annex to the NRP (now NRF) was a source of considerable criticism after Hurricane Katrina. The purpose of this annex is to describe an accelerated, proactive national response to catastrophic incidents and establish protocols to pre-identify and rapidly deploy essential resources expected to be urgently needed. Lack of clarity about the circumstance under which the annex should be activated contributed to issues with clear roles and lines of responsibility and authority. Because questions surrounded whether the annex should apply only to events that occur with little or no notice rather than events with more notice that have the potential to evolve into incidents of catastrophic magnitude, like a strengthening hurricane, it did not provide a clear guidance about the extent to which the federal government should have been involved in the accelerated response role that it describes. We noted in 2006 that our review of the NRP and its catastrophic incident annex—as well as lessons from Hurricane Katrina—demonstrated the need for DHS and other federal agencies to develop robust and detailed operational plans to implement the catastrophic incident annex and its supplement in preparation for and response to future catastrophic disasters.

Under the Post-Katrina Act, FEMA's National Integration Center is statutorily responsible for revising the Catastrophic Incident Annex and for finalizing and releasing an operational supplement—the Catastrophic Incident Supplement.<sup>9</sup> The annex

<sup>6</sup>U.S.C. § 1A319(c).

<sup>7</sup>The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. §§ 5121–5208, primarily establishes the programs and processes for the federal government to provide major disaster and emergency assistance to states, local governments, tribal nations, individuals, and qualified private nonprofit organizations. Upon a governor's request, the President can declare an "emergency" or a "major disaster" under the Stafford Act, which triggers specific types of federal relief.

<sup>8</sup>The funding prohibition is set forth at Consolidated Appropriations Act, 2008, Pub. L. No. 110–161, Div. E, Title V, § 541, 121 Stat. 1844, 2079 (2007) and Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Pub. L. No. 110–329, Div. D, § 1A526, 122 Stat. 3574 (2008).

<sup>9</sup>6 U.S.C. § 319(b)(2)(C)

was revised and released in November 2008.<sup>10</sup> Officials from FEMA's National Preparedness Directorate told us in March 2009 that operational annexes of the Catastrophic Incident Supplement are being updated to reflect the current response capabilities of the federal government. FEMA officials told us that the annex and its operational supplement were not activated during the 2008 hurricane season because none of the storms resulted in a catastrophic incident that would require their use.

### **Capabilities**

In our 2006 report, we noted that developing the capabilities needed for large-scale disasters is part of an overall national preparedness effort that is designed to integrate and define what needs to be done, where, based on what standards, how it should be done, and how well it should be done. The response to Hurricane Katrina highlighted the limitations in the nation's capabilities to respond to catastrophic disasters. Various reports from Congress and others, along with our work on FEMA's performance before, during, and after Hurricane Katrina suggested that FEMA's human, financial, and technological resources and capabilities were insufficient to meet the challenges posed by the unprecedented degree of damage and the resulting number of hurricane victims. Among other things, in 2006 we reported on problems during Hurricane Katrina with (1) emergency communications, (2) evacuations, (3) logistics, (4) mass care, (5) planning and training, and (6) human capital.

### **Emergency Communications**

Our 2006 report noted that emergency communications is a critical capability common across all phases of an incident. Agencies' communications systems during a catastrophic disaster must first be operable, with sufficient communications to meet internal and emergency communication requirements. Once operable, they then should have communications interoperability whereby public safety agencies (e.g., police, fire, emergency medical services) and service agencies (e.g., public works, transportation, hospitals) can communicate within and across agencies and jurisdictions in real time as needed. Hurricane Katrina caused significant damage to the communication infrastructure—including commercial landline and cellular telephone systems—in Louisiana and Mississippi, which further contributed to a lack of situational awareness for military and civilian officials.

Among other provisions aimed at strengthening emergency communications capabilities, the Post-Katrina Act established an Office of Emergency Communications (OEC) within DHS. The statutory responsibilities of OEC include, but are not limited to, conducting outreach, providing technical assistance, coordinating regional emergency communications efforts, and coordinating the establishment of a national response capability for a catastrophic loss of local and regional emergency communications.<sup>11</sup>

### **Stakeholder Outreach**

OEC's stakeholder outreach efforts have included coordinating with 150 individuals from the emergency response community to develop the National Emergency Communications Plan. OEC officials stated that the outreach was primarily carried out through several organizations that represent officials from federal, state, and local governments and private-sector representatives from the communications, information technology, and emergency services sectors.

### **Technical Assistance**

Through the Interoperable Communications Technical Assistance Program, OEC has been working with Urban Area Working Groups and states to assess their communications infrastructure for gaps and determine technical requirements that can be used to design or enhance interoperable communications systems. According to the Deputy Director of OEC, OEC provided technical assistance to 13 recipients of the 2007 Urban Area Security Initiative grants by providing guidance on technical issues such as engineering solutions and drafting requests for proposals, as well as providing best practices information. In addition, OEC offered assistance to states and territories in developing their Statewide Communication Interoperability Plans and, as of August 1, 2008, had conducted plan development workshops for the 30 states and five territories that requested such help.

### **Coordinating Regional Communications**

Officials from OEC stated that they have been coordinating to minimize any overlap between the roles and responsibilities of various DHS regional staff offices re-

<sup>10</sup>The Catastrophic Incident Annex is available online via the NRF Resource Center, [www.fema.gov/nrf](http://www.fema.gov/nrf).

<sup>11</sup>6 U.S.C. § 571.

lated to emergency communications. According to the officials, officials from these regional staff offices plan to attend and share information through the Regional Emergency Communications Coordination Working Groups—also established by the Post-Katrina Act.<sup>12</sup> OEC officials said that OEC had hired a federal employee to represent OEC at working group meetings. In addition, OEC officials stated their intention to hire regional interoperability coordinators for each of the 10 FEMA regions in fiscal year 2009 to work with FEMA on the activities of the working groups.

FEMA officials told us in March 2009 that FEMA's Disaster Emergency Communications Division has filled one national and nine regional positions to coordinate the working groups. FEMA's Region II has not yet filled the regional position. As of March 2009, all working groups, with the exception of Regions II and IX, have been established. According to FEMA officials, the eight established groups have had various levels of activity, with the number of meetings ranging from one time (Regions VI and X) to eight times (Regional IV). No updated information about specific efforts to minimize overlap or to achieve the Post-Katrina Act objectives for the working groups was provided.

#### **Establishing a National Response Capability**

To establish a national response capability for a catastrophic loss of local and regional emergency communications, OEC officials told us they had been working with FEMA and the National Communications System (NCS)<sup>13</sup> to coordinate policy and planning efforts relating to the existing response capability managed through the NRF's Communication Annex, Emergency Support Function 2.<sup>14</sup> According to OEC officials, an example of this coordination was the inclusion of continuity of emergency communications and response operations in the National Emergency Communications Plan.

The officials also said that OEC would represent NCS in regions where the system has no presence and would support the system's private-sector coordination role, as appropriate. In addition, the Director and Deputy Director of OEC told us that OEC, FEMA, and the NCS were developing a strategy that involved the OEC's regional interoperability coordinators providing technical support, playing a role as needed in Emergency Support Function 2, and providing response capabilities within their designated regions, among other things.

FEMA officials told us in March 2009 that FEMA and NCS have worked closely to develop revised operating procedures that define their roles and responsibilities under Emergency Support Function 2. In addition, they said that NCS recently hired three Regional Emergency Communications Coordinators with responsibility for coordinating with regional, private-sector communications providers. The NCS coordinators are working with FEMA regional coordinators to ensure that infrastructure communications restoration efforts are supported by and consistent with FEMA tactical communications support to state and local response efforts.

To improve the national response capability, FEMA officials also reported in March 2009 that they had defined an integrated response framework and five critical disaster emergency communications incident support functions—mission operations, facilities, tactical, restoration, and planning and coordination. Additionally, the officials also reported acquiring assets, assessing networks, and establishing prescribed mission assignments to enhance response capabilities. Finally, the officials said that FEMA Disaster Emergency Communications Division has coordinated the development of 24 state and territory disaster emergency communications annexes. They noted that some of these state and territorial annexes were used in Hurricanes Gustav and Ike, as well as during the Presidential Inauguration to support response activities, understand state and local communications capabilities, and prepare for any shortfalls that may arise.

In terms of tactical support, FEMA officials told us that FEMA's Mobile Emergency Response Support mission carried out a variety of support activities during Hurricanes Gustav and Ike. For example, among other activities reported by the officials, FEMA provided mobile emergency communications infrastructure to support

<sup>12</sup> 6 U.S.C. § 575(a).

<sup>13</sup> Established by Presidential Memorandum on August 21, 1963, the National Communications System was created to be a single unified communications system to serve the President, Department of Defense, diplomatic and intelligence activities, and civilian leaders. The National Communications System mandate included linking, improving, and extending the communications facilities and components of various federal agencies, focusing on interconnectivity and survivability. NCS membership currently stands at 24 federal department and agency members and is managed by the DHS Under Secretary for National Protection and Programs.

<sup>14</sup> Emergency Support Function 2 provides a structure for coordinating federal actions to assist in the restoration of public communications infrastructure, public safety communications systems, and first responder networks.

continuity of local government and supported maintenance and repair of communications equipment for local first responders on Galveston Island.

### **Evacuations**

We reported in 2006 that by definition, a catastrophic disaster like Hurricane Katrina would impact a large geographic area necessitating the evacuation of many people—including vulnerable populations, such as hospital patients, nursing home residents, and transportation-disadvantaged populations who were not in such facilities.

### **Transportation Assistance**

The Post-Katrina Act amended the Stafford Act to authorize transportation assistance to relocate displaced individuals to and from alternate locations for short- or long-term accommodations, or to return them to their predisaster primary residences.<sup>15</sup> FEMA officials in the Disaster Assistance Directorate told us that they have developed a draft policy for implementing the transportation assistance authority. They noted that it would require implementation of proposed regulatory changes before becoming effective, and as of March 2009, it was on hold due to these required changes. In addition, they noted that according to FEMA's July 2006 Mass Sheltering and Housing Assistance Strategy, if the scale of the evacuation overwhelms affected states' sheltering capabilities, FEMA will coordinate and provide air or surface transportation in support of interstate evacuation. If the evacuated area is without extensive damage to residences, as stated in the strategy, FEMA will coordinate and fund return mass transportation to the point of transportation origin. If the evacuated area suffered extensive damage to residences, eligible evacuees are authorized, with host state consent, to use FEMA funding known as Other Needs Assistance to purchase return transportation when they are able to do so.

### **Mass Evacuation Planning and Technical Assistance**

The Post-Katrina Act authorized grants made to state, local, and tribal governments through the State Homeland Security Program or the Urban Area Security Initiative to be used to establish programs for mass-evacuation plan development and maintenance, preparation for execution of mass evacuation plans, and exercises.<sup>16</sup> According to the Director of Grants Development and Administration, FEMA informed state, local, and tribal governments that they may use the grant awards to assist mass evacuation planning via the fiscal year 2008 Homeland Security Grant Program written guidance, which covers both grants.

The act also required the FEMA Administrator, in coordination with the heads of other federal agencies, to provide evacuation preparedness technical assistance to state, local, and tribal governments.<sup>17</sup> FEMA developed the Mass Evacuation Incident Annex to the NRF, which provides an overview of mass evacuation functions, agency roles and responsibilities, and overall guidelines for the integration of federal, state, tribal, and local support for the evacuation of large numbers of people during incidents requiring a coordinated federal response. However, according to officials in FEMA's Disaster Operations Directorate, as of March 10, 2009, FEMA had not finalized the Mass Evacuation Incident Annex Operational Supplement to the NRF to provide additional guidance for mass evacuations.

Officials in FEMA's Disaster Operations Directorate also noted that the states participating in FEMA's Catastrophic Disaster Planning Initiative— an effort to strengthen response planning and capabilities for select scenarios (e.g., a Category 5 hurricane making landfall in southern Florida)—benefit from detailed federal, state, and local catastrophic planning that includes examination of evacuation topics. These states include Florida, Louisiana, California, and the eight Midwestern states in the New Madrid Seismic Zone. National Preparedness Directorate officials also told us that FEMA had conducted mass evacuation workshops in Georgia and Florida and had provided technical assistance to the state of Louisiana, helping to develop a mass evacuation plan. FEMA officials told us that this plan—the Gulf Coast Evacuation Plan—was successfully implemented during Hurricane Gustav to evacuate 2 million people from New Orleans within 48 hours of the incident using a multimodal approach (air, bus, and rail) and to enable their return within 4 days.

The Post-Katrina Act requires FEMA to provide mass evacuation planning assistance to institutions that house individuals with special needs upon request by a state, local, or tribal government.<sup>18</sup> FEMA officials in the Disaster Operations Directorate told us that they had not received any requests for such assistance. These

<sup>15</sup> 42 U.S.C. § 5189c.

<sup>16</sup> 6 U.S.C. § 321a.

<sup>17</sup> 6 U.S.C. § 721.

<sup>18</sup> 6 U.S.C. § 321a(c)(2).

officials said that the draft Mass Evacuation Incident Annex Operational Supplement will include a tab on evacuation issues related to people with special needs and, once issued, can provide guidance to hospitals, nursing homes, and other institutions that house individuals with special needs. Officials from FEMA's National Preparedness Directorate also noted that the Homeland Security Preparedness Technical Assistance Program provides technical assistance upon request to jurisdictions interested in planning for mass evacuations. Additionally, they said the directorate was developing evacuation and reentry planning guidance for use by state and local governments, which is scheduled for interim release in the summer of 2009.

#### **Evacuation for Special Needs Populations**

In establishing a Disability Coordinator within FEMA to ensure that the needs of individuals with disabilities are addressed in emergency preparedness and disaster relief, the Post-Katrina Act charged the Disability Coordinator with specific evacuation-related responsibilities, among other things. First, the act required the coordinator to ensure the coordination and dissemination of model evacuation plans for individuals with disabilities. Second, the act charged the coordinator with ensuring the availability of accessible transportation options for individuals with disabilities in the event of an evacuation.<sup>19</sup> At the time of our 2008 report, FEMA had efforts under way for each provision, but provided little specific detail on the status of those efforts. The Disability Coordinator told us that FEMA was in the process of developing model evacuation plans for people with disabilities. She also told us that FEMA had begun to work with state emergency managers to help develop evacuation plans that include accessible transportation options, and that FEMA was working with states to develop paratransit options as well as to coordinate the use of accessible vans for hospitals and nursing homes.

#### **Family and Child Locators**

In 2006, we conducted work examining the nation's efforts to protect children after the Gulf Coast hurricanes and identified evacuation challenges for this population. We noted that thousands of children were reported missing to the National Center for Missing and Exploited Children, which used its trained investigators to help locate missing children after the evacuation. Officials from this Center stated that both the American Red Cross and FEMA had some information on the location of children in their databases; however, they said it was difficult to obtain this information because of privacy concerns. These officials told us that standing agreements for data sharing among organizations tracking missing children, the Red Cross, and FEMA could help locate missing persons more quickly.

The Post-Katrina Act established two mechanisms to help locate family members and displaced children. First, the act established the National Emergency Child Locator Center within the National Center for Missing and Exploited Children and enumerated the responsibilities of the center, among other things, to provide technical assistance in locating displaced children and assist in the reunification of displaced children with their families.<sup>20</sup> Second, the act required the FEMA Administrator to establish the National Emergency Family Registry and Locator System to help reunify families separated after an emergency or major disaster.<sup>21</sup>

The National Emergency Child Locator Center and the Family Registry and Locator System have each established a hotline and a Web site. The family locator system has a mechanism to redirect any request to search for or register displaced children to the National Emergency Child Locator Center.

FEMA officials told us in March 2009 that the family locator system was activated and used during Hurricanes Gustav and Ike after it was determined that the coastal evacuations of Louisiana and Texas would involve millions of people. Once activated, FEMA's Public Affairs Office informed the media in the affected areas about the availability of the service. Officials noted that use of the family locator system during Hurricane Gustav resulted in 558 registrants and 862 searches, and use during Hurricane Ike resulted in 1,162 registrants and 1,034 searches. The National Emergency Child Locator Center was not activated, but three referrals (one during Hurricane Gustav and two during Hurricane Ike) were forwarded to the National Center for Missing and Exploited Children through the family locator system Web site.

At the time of our 2008 report, FEMA had established a memorandum of understanding (MOU), effective March 6, 2007, with the following organizations: the Department of Justice, the Department of Health and Human Services, the National

<sup>19</sup> 6 U.S.C. § 321b(b)(4), (b)(8).

<sup>20</sup> 6 U.S.C. § 774.

<sup>21</sup> 6 U.S.C. § 775.

Center for Missing and Exploited Children, and the American Red Cross that, among other things, requires signatory agencies to participate in a cooperative agreement, and for FEMA, through the National Emergency Family Registry and Locator System, to provide relevant information to the National Emergency Child Locator Center. The Disaster Assistance Directorate Unit Leader told us that the child locator center was, at that time, in the process of finalizing cooperative agreements with federal and state agencies and other organizations such as the American Red Cross to help implement its mission. FEMA officials told us that, as of March 2009, a cooperative agreement between FEMA and the National Center for Missing and Exploited Children was being finalized. They said they expected the agreement to be tested during the 2009 hurricane season.

### **Logistics**

We reported in 2006 that our work and that of others indicated that logistics systems—the capability to identify, dispatch, mobilize, and demobilize and to accurately track and record available critical resources throughout all incident management phases—were often totally overwhelmed by Hurricane Katrina. Critical resources apparently were not available, properly distributed, or provided in a timely manner. The result was duplication of deliveries, lost supplies, or supplies never being ordered.

FEMA is responsible for coordinating logistics during disaster response efforts, but during Hurricane Katrina, FEMA quickly became overwhelmed, in part because it lacked the people, processes, and technology to maintain visibility—from order through final delivery—of the supplies and commodities it had ordered. Similarly, our 2006 work examining the coordination between FEMA and the Red Cross to provide relief to disaster victims found that FEMA did not have a comprehensive system to track requests for assistance it received from the Red Cross on behalf of voluntary organizations and state and local governments for items such as water, food, and cots. The Post-Katrina Act required FEMA to develop an efficient, transparent, and flexible logistics system for procurement and delivery of goods and services necessary for an effective and timely emergency response.<sup>22</sup>

### **Logistics Management**

In November 2008, we reported that FEMA had taken multiple actions to improve its logistics management. First, seeking to develop an effective and efficient logistics planning and operations capability, FEMA elevated its logistics office from the branch to the directorate level, establishing the Logistics Management Directorate (LMD) in April 2007.

Second, FEMA and the U.S. General Services Administration—FEMA’s colead for Emergency Support Function 7<sup>23</sup>—sponsored the National Logistics Coordination Forum in March 2008. The forum was intended to open a dialogue between the sponsors and their logistics partners, and to discuss how to better involve the private sector in planning for and recovering from disasters. The forum was attended by representatives from other federal agencies, public and private sector groups, nongovernmental organizations, and other stakeholders.

Third, to improve its supply chain management, FEMA brought in a supply chain expert from the United Parcel Service through its Loaned Executive Program. FEMA also has a Private Sector Office to exchange information on best practices and to facilitate engagement with the private sector. In addition, FEMA established a Distribution Management Strategy Working Group in January 2008 to analyze and develop a comprehensive distribution and supply chain management strategy.

Finally, in 2007, FEMA conducted the Logistics Management Transformation Initiative, a comprehensive assessment of FEMA’s logistics planning, processes, and technology. LMD officials intend for this initiative to help inform the development of a long-term strategy to transform FEMA’s business processes and identify information technology development opportunities. According to LMD officials, FEMA plans to complete this transformation by 2009, and review and refine business processes by 2014.

We noted in our November 2008 report, as an area to be addressed, that the DHS Office of Inspector General reported in May 2008 that, while FEMA had developed a logistics planning strategy that calls for developing three levels of logistics plans (strategic, operational, and tactical), the FEMA Incident Logistics Concept of Operations and a Logistics Management Operations Manual were still in draft.

<sup>22</sup> 6 U.S.C. § 724.

<sup>23</sup> Under Emergency Support Function 7: Logistics Management and Resource Support, FEMA is responsible for providing a comprehensive national disaster logistics planning, management, and sustainment capability that uses the resources of federal partners, public and private groups, and other stakeholders to meet disaster response and recovery needs.

### **Total Asset Visibility**

Our 2006 findings about logistics challenges included FEMA's inability to maintain visibility over supplies, commodities, and requests for assistance. As of August 1, 2008, FEMA had fully implemented Total Asset Visibility (TAV) programs in FEMA Regions IV and VI to manage and track, electronically and in real time, the movement of its disaster commodities and assets. At that time, according to FEMA LMD officials, TAV was partially available in the other eight FEMA regions. FEMA officials told us in March 2009 that the strategy to fully implement TAV by 2011 was undergoing a comprehensive review. LMD had restricted spending to critical mission functions, pending completion of the review. In the meantime, they said LMD would focus on capabilities that could have the most significant impact during the 2009 hurricane season, specifically, the aspect of TAV used for warehouse management and the aspect that would allow FEMA to use the system to order materials and from and track shipments of its response partners. Initially LMD is working with four partners—the Defense Logistics Agency, the General Services Administration, the U.S. Army Corps of Engineers, and the American Red Cross. According to LMD officials, at the time of our November 2008 report, the aspect of TAV FEMA uses for warehouse management was only available at distribution centers in Atlanta, Georgia, and Fort Worth, Texas. The officials stated that FEMA expected to deploy the warehouse management portion of TAV to the other six FEMA distribution centers—in Berryville, Virginia; Frederick, Maryland; San Jose, California; Guam; Hawaii; and Puerto Rico—in fiscal years 2009 and 2010. Further, the officials said that shipments from FEMA's logistics partners were not yet tracked through TAV, but FEMA and the four initial partners were working to provide full visibility of critical shipments to disaster areas.

FEMA officials told us in March 2009 that during Hurricanes Gustav and Ike, they used TAV to create and track commodity requirements fulfilled by FEMA or its partners and to track FEMA shipments in-transit. The officials noted that they were not able to track shipments from partners before they arrived at FEMA sites but that deficiency could be corrected when the partner-tracking aspect of TAV was fully implemented. They also said they used TAV's warehouse management system, where available, to track and manage shipments, receipts and inventory for eight critical commodities daily. Other commodities that could not yet be tracked through TAV's warehouse management system had to be manually entered into the system. Finally, they said they used TAV to track in-transit visibility of ambulances, buses, and temporary housing units.

In March 2009, FEMA officials also shared four major lessons learned and planned corrective actions resulting from the response to Hurricanes Ike and Gustav. The four lessons learned related to: (1) inconsistent use of TAV in the field during Hurricane Ike, (2) lack of TAV specialists to support all distribution sites, (3) slow and unreliable connectivity to the TAV system, and (4) use of standard operating procedures. To address inconsistent use of TAV, FEMA officials say they have increased standardized training and awareness at all levels within FEMA and have developed a TAV communications plan intended increase awareness of TAV capabilities. To address issues with the availability of TAV specialists, FEMA officials told us they have identified and screened additional TAV specialists, are planning to hire additional Disaster Assistance Employees, and are planning to crosstrain additional employees. To address connectivity issues, FEMA officials said they are testing use of portable satellite equipment and scanners that are hardwired to a satellite. They also said they are seeking to use extended wireless access to support operations during the 2009 hurricane season. To address issues with standard operating procedures, FEMA officials said they are reviewing and updating the procedures and reemphasizing the appropriate use of TAV through training.

### **Mass Care**

Mass care is the capability to provide immediate shelter, feeding centers, basic first aid, and bulk distribution of needed items and related services to affected persons. As we reported in 2006, during Hurricane Katrina, charities and government agencies that provide human services, supported by federal resources, helped meet the mass care needs of the hundreds of thousands of evacuees. The Post-Katrina Act contained multiple provisions aimed at strengthening capabilities to provide for immediate mass care and sheltering needs, particularly for special needs populations.

### **Accelerated Federal Assistance**

The Post-Katrina Act amended the Stafford Act to authorize the President to provide accelerated federal assistance in the absence of a specific request where necessary to save lives, prevent human suffering, or mitigate severe damage in a major disaster or emergency. The act required the President to promulgate and maintain guidelines to assist governors in requesting the declaration of an emergency in ad-

vance of a disaster event.<sup>24</sup> FEMA issued an interim Disaster Assistance Policy in July 2007, which provides guidelines to assist governors in requesting the declaration of an emergency in advance of a disaster.

According to officials in FEMA's Disaster Operations Directorate, FEMA has established a program to preposition goods and services in advance of a potential disaster. For example, the officials explained that FEMA was able to respond quickly to a state that had been affected by ice storms because the agency, acting without an initial request from the state, had prepositioned goods in advance of the storms. FEMA officials told us FEMA was reviewing a draft policy directive that would allow FEMA to provide federal assistance without a declaration if a state would agree to assume the normal cost share after a declaration has been made or to assume total cost if no declaration is made.

### Special Needs Populations

In establishing a Disability Coordinator within FEMA to ensure that the needs of individuals with disabilities are addressed in emergency preparedness and disaster relief, the Post-Katrina Act charged the coordinator with coordinating and disseminating best practices for special needs populations.<sup>25</sup> The Disability Coordinator shared with us two such practices that were in progress at the time of our November 2008 report. First, FEMA was developing "go kits" for people with developmental impairments, the hearing impaired, and the blind. The go kits are to contain visual and hearing devices. For example, the go kit for the hearing impaired will include a teletypewriter, a keyboard with headphones, and a clipboard with sound capabilities. The go kits are to be stored in the regions and include a list of their contents and directions for use. Second, the Disability Coordinator said FEMA was developing a handbook for federal, state, and local officials to use in the field to help them better accommodate those with disabilities.

In addition, the Post-Katrina Act required that the FEMA Administrator, in coordination with the National Advisory Council, the National Council on Disabilities, the Interagency Coordinating Council on Preparedness and Individuals with Disabilities, and the Disability Coordinator, develop guidelines to accommodate individuals with disabilities.<sup>26</sup>

FEMA has published a reference guide titled *Accommodating Individuals with Disabilities in the Provisions of Disaster Mass Care, Housing, and Human Services*. The reference guide describes existing legal requirements and standards relating to access for people with disabilities, with a focus on equal access requirements related to mass care, housing, and human services. The reference guide states that it is not intended to satisfy all of the guideline requirements contained in the Post-Katrina Act.

In addition to the reference guide, FEMA released for public comment guidance titled *Interim Emergency Management Planning Guide for Special Needs Populations*. This interim guidance—also known as the *Comprehensive Preparedness Guide (CPG) 301*—addressed some of the requirements contained in the Post-Katrina Act, such as access to shelters and portable toilets and access to emergency communications and public information. However, it did not address other requirements, such as access to first-aid stations and mass-feeding areas.

FEMA officials told us in March 2009 that they had received final comments on CPG 301 and expected to release the final document in spring 2009. In addition, FEMA officials stated that they have developed additional guidance for the Functional Needs Support Unit, which they expect to publish by the end of March 2009. According to the interim version of CPG 301, the Functional Needs Support guidance will serve as a template for developing sheltering plans for special needs populations. Once the Functional Needs Support program is in place, the Functional Needs Support Unit can be used in shelters, so that trained and certified shelter staff will be assigned to serve as caregivers and provide the assistance normally supplied by a family member or attendant. FEMA officials told us that the agency will contract to provide training to states and localities on how to implement the Functional Needs Support guidance—such as how to provide staff, caregivers, durable medical equipment, and facility access.

FEMA officials stated that, in the absence of completed guidance for the 2008 hurricane season, shelters received the Justice Department's *Americans with Disabilities Act Checklist for Emergency Shelters*. They also said that the 2008 hurricane season highlighted the need for a standardized but scalable approach to sheltering

<sup>24</sup> 42 U.S.C. §§ 5170a(5), 5192(a)(8), (c).

<sup>25</sup> 6 U.S.C. 321b(b)(4).

<sup>26</sup> 6 U.S.C. 773.

special needs populations, with attention given to durable medical equipment, caregivers, trained staff, and special diets for evacuees.

#### **Planning and Exercises**

As we reported in 2006, ensuring that needed capabilities are available requires effective planning and coordination, as well as training and exercises, in which the capabilities are realistically tested, and problems identified and lessons learned and subsequently addressed in partnership with other federal, state, and local stakeholders. Clear roles and coordinated planning are necessary, but not sufficient by themselves to ensure effective disaster management. It is important to test the plans and participants' operational understanding of their roles and responsibilities through robust training and exercise programs.

#### **National Exercise and Training Programs**

The Post-Katrina Act required the FEMA Administrator, in coordination with the heads of appropriate federal agencies, the National Council on Disabilities, and the National Advisory Council, to carry out a national training program and a national exercise program.<sup>27</sup> FEMA's National Preparedness Directorate has established a National Exercise Program. According to officials from FEMA's National Preparedness Directorate, the National Exercise Program conducts four Principal-Level Exercises and one National-Level Exercise annually. These FEMA officials said that the Principal-Level Exercises are discussion-based (i.e., tabletop or seminar) to examine emerging issues and that one is conducted in preparation for the annual National-Level Exercise. The National-Level Exercises are operations-based exercises (drills, functional exercises, and full-scale exercises) intended to evaluate existing national plans and policies, in concert with other federal and nonfederal entities. We have ongoing work examining the National Exercise Program, and we expect to publish a report on the results of our work this spring.

FEMA's Deputy for National Preparedness told us that DHS and FEMA were developing the Homeland Security National Training Program to oversee and coordinate homeland security training programs, increase training capacity, and ensure standardization across programs.

#### **National Exercise Simulation Center**

The Post-Katrina Act also required the President to establish a National Exercise Simulation Center (NESC) that uses a mix of live, virtual, and constructive simulations to, among other things, provide a learning environment for the homeland security personnel of all federal agencies, and that uses modeling and simulation for training, exercises, and command and control functions at the operational level.<sup>28</sup>

According to FEMA officials, FEMA has been using FEMA Simulation Centers, Department of Defense facilities, and other facilities to support exercise simulation while it develops the NESC. For example, FEMA officials said that FEMA has provided initial exercise simulation support for exercises requiring the two highest levels of federal interagency participation in the National Exercise Program. According to an official in FEMA's National Integration Center, the NESC is currently under development and is estimated to take 3 to 4 years to fully establish.

#### **Remedial Action Management Program**

The Post-Katrina Act also required the FEMA Administrator, in coordination with the National Council on Disabilities and the National Advisory Council, to establish a remedial action management program to, among other things, track lessons learned and best practices from training, exercises, and actual events.<sup>29</sup>

FEMA launched the Remedial Action Management Program (RAMP) in 2003 and released it as a Web application for all FEMA intranet users in January 2006. RAMP uses FEMA facilitators to conduct sessions immediately after exercises or events, and these facilitators are responsible for developing issue descriptions for remedial actions. In addition, FEMA has a related program called the Corrective Action Program (CAP) that is to be used for governmentwide corrective action tracking by federal, state, and local agencies. While RAMP is FEMA's internal remedial action program, CAP is designed to serve as an overarching program for linking federal, state, and local corrective actions. FEMA developed RAMP prior to enactment of the Post-Katrina Act. However, FEMA has not yet established any mechanisms to coordinate ongoing implementation of RAMP or CAP with the National Council on Disabilities or the National Advisory Council. We have ongoing work related to FEMA's efforts to track corrective actions from exercises and actual events. We plan to publish a report this spring.

<sup>27</sup> 6 U.S.C. § 748.

<sup>28</sup> 6 U.S.C. § 764.

<sup>29</sup> 6 U.S.C. § 750.

### Human Capital Issues

In 2006, we reported that the various Congressional reports and our own work on FEMA's performance before, during, and after Hurricane Katrina suggest that FEMA's human resources were insufficient to meet the challenges posed by the unprecedented degree of damage and the resulting number of hurricane victims.

### Surge Capacity

The Post-Katrina Act requires the FEMA Administrator to prepare and submit to Congress a plan to establish and implement a Surge Capacity Force for deployment to disasters, including catastrophic incidents. The act requires the plan to include procedures for designation of staff from other DHS components and executive agencies to serve on the Surge Capacity Force. It also required that the plan ensure that the Surge Capacity Force includes a sufficient number of appropriately credentialed individuals capable of deploying to disasters after being activated, as well as full-time, highly trained, credentialed individuals to lead and manage.<sup>30</sup>

The Director of FEMA's Disaster Reserve Workforce explained that unlike in the military model, FEMA's disaster reservists are the primary resource for disaster response and recovery positions, filling 70–80 percent of all Joint Field Office positions. FEMA has interpreted Surge Capacity Force to include its Disaster Reserve Workforce of 5,000–6,000 reserve Disaster Assistance Employees, who are full-time and contract staff. If additional capacity is necessary, another approximately 2,000 Disaster Assistance Employees are available to perform immediate, nontechnical functions that require large numbers of staff. Other sources FEMA has identified include local hires—additional staff hired from the affected area to perform the same functions as disaster reservists; contract support for activities that require specialized skill sets and for general disaster assistance functions; other full-time FEMA staff detailed to perform disaster assistance work; and other resources—particularly employees from other DHS components—detailed to perform disaster assistance work. FEMA's Disaster Reserve Workforce provided information on the deployment of FEMA workforce in response to Hurricanes Gustav and Ike, as outlined in table 1.

Table 1: Workforce Deployment during Hurricanes Ike and Gustav, 2008

Disaster reserve workforce	Local hire	Other	Permanent full time	Temporary full time	Total
1,987	4	1	486	46	2,524
3,127	213	2	519	62	3,923

Source: FEMA.

FEMA contracted to perform a baseline assessment and preliminary design for professionalizing the Disaster Reserve Workforce and its supporting program management function, including FEMA's Surge Capacity Force planning. The contractor developed a preliminary design for the Disaster Reserve Workforce, which included an organizational concept, workforce size and composition, concept of operations, and a policy framework. An Interim Surge Capacity Force Plan was announced in a meeting of the DHS Human Capital Council in March 2008 and communicated to the heads of DHS components in a May 2008 memorandum from the FEMA Administrator.

Despite the initial actions FEMA has taken to assess its baseline capabilities and draft an interim Surge Capacity Force Plan, according to the Director of the Disaster Workforce Division, FEMA has not yet provided Congress with a plan for establishing and implementing a Surge Capacity Force. The director stated that her goal is to submit a plan to implement a surge capacity force by summer 2009 with timelines and information on select—but not all—positions in the disaster reserve workforce.

In May 2008, FEMA sent a list of job titles and positions needed in the Surge Capacity Force to all DHS Human Capital Officers and asked them to identify approximately 900 employees throughout DHS for the Surge Capacity Force. According to the director of the Disaster Reserve Workforce Division, the initial DHS Agency Surge Capacity designation lists were submitted in June 2008. However, she stated that upon review, there were inconsistencies with the different agencies' interpretation of requirements for personnel, training, and skill sets. Therefore, a

<sup>30</sup> 6 U.S.C. § 711.

Surge Capacity Force Working Group met to review surge staffing requirements and to develop a timeline for the development of processes and a Concept of Operations Plan. Agency participants in the working group included FEMA, the Transportation Security Administration, and U.S. Citizenship and Immigration Services. The Disaster Reserve Workforce Division told us that, as of March 2009, a draft of the Concept of Operations Plan was being reviewed within these three component agencies and a final product is expected to be delivered for DHS review by June 30, 2009. According to the Disaster Reserve Workforce Division, because internal FEMA resources were sufficient to respond effectively to Hurricanes Gustav and Ike, FEMA did not require the assistance of other federal agency employees for those events.

The Disaster Reserve Workforce Division, in partnership with FEMA's Emergency Management Institute, has been developing standardized credentialing plans, which will incorporate existing position task books for the Disaster Assistance Employee workforce (a total of 230 positions organized in 23 cadres). FEMA officials told us in March 2009 that they had either initiated development of or completed credentialing plans for 102 positions. They said they expected to complete the remaining credentialing plans for all cadres and positions by spring 2010. Disaster Reserve Workforce Division officials explained that development of the credentialing plans in conjunction with the position task books will highlight gaps in the training curriculum that will assist in prioritizing curriculum development.

Apart from the Disaster Reserve Workforce Division's credentialing initiative, the FEMA workforce is to be credentialed by the National Preparedness Directorate's NIMS credentialing program, the administrative process for validating the qualifications of personnel, assessing their background, and authorizing their access to incidents involving mutual aid between states. FEMA officials told us in March 2009 that the NIMS Credentialing Guideline was posted to the Federal Register and issued for public comment on December 22, 2008, and the comment period closed on January 21, 2009. They said comments have been collected and were to be adjudicated March 11, 2009. According to the officials, following adjudication, the guideline is to be revised and submitted to the Executive Secretariat for formal FEMA adoption and release. According to FEMA officials, experiences from the 2008 hurricane season confirmed the basic need for the credentialing program.

#### **Strike Teams and Emergency Response Teams**

The Post-Katrina Act requires each FEMA Regional Office to staff and oversee one or more strike teams within the region to serve as the focal point of the federal government's initial response efforts and to build federal response capabilities within their regions.<sup>31</sup> The act also requires the President, acting through the FEMA Administrator to establish emergency response teams (at least three at the national level and a sufficient number at the regional level).<sup>32</sup>

According to Disaster Operations Directorate officials, "strike teams" and "emergency response teams," the Post-Katrina Act's terms for the support teams deployed to assist in major disasters and emergencies under the Stafford Act, are now called Incident Management Assistance Teams (IMAT). IMATs are interagency national- or regional-based teams composed of subject matter experts and incident-management professionals, and are designed to manage and coordinate national response emergencies and major disasters. According to the officials, Regional Administrators oversee IMATs based within their regions. IMAT personnel are intended to be permanent, full-time employees whose duties and responsibilities are solely focused on their IMAT functions. The officials said that the IMATs' other functions include working with state and local emergency managers to plan, prepare, and train for disasters; running exercises; and building relationships with emergency managers and other IMAT personnel. National IMATs are to consist of 26 positions, including a designated team leader and senior managers for operations, logistics, planning, and finance and administration sections. This sectional organization mirrors the incident command structure presented in the NIMS.

FEMA has established a national IMAT in the National Capital Region and a second national IMAT in Sacramento, California, according to FEMA officials in the Disaster Operations Directorate. At the regional level, Disaster Operations Directorate officials said that IMATs had been established in FEMA Regions II, IV, V, and VI. According to these officials, they are in the process of establishing a fifth regional IMAT in Region VII, to become operational later this year. They said that FEMA's intention is to establish IMATs in all 10 regions by the end of fiscal year 2010 and a third national team in fiscal year 2011.

<sup>31</sup> 6 U.S.C. § 317(c)(2)(D).

<sup>32</sup> 42 U.S.C. § 5144(b)(1).

According to FEMA officials in the Disaster Operations Directorate, although the National IMAT established in the National Capital Region was fully staffed, when we reported in November 2008, some IMAT positions were not yet filled with permanent full-time employees, but rather with FEMA detailees who had been selected for their advanced training and expertise. In general, the detailees were to provide guidance and support to the permanent full-time employees until the teams were fully staffed with personnel capable of managing their respective IMATs.

According to officials in FEMA's Disaster Operations Directorate, at the time of our November 2008 report, FEMA had procured personal equipment for IMAT members and had ordered communications vehicles. In addition, the National IMAT had participated in the National-Level Exercise 2008. Also, Disaster Operations Directorate officials told us that IMATs supported a number of disasters and special events in 2008 (including recent storms and hurricanes and the Democratic and Republican National Conventions).

FEMA has established mandatory training courses for all IMAT personnel, in addition to the standard training required for all FEMA employees. According to officials in FEMA's Disaster Operations Directorate, they have been implementing a credentialing program for the IMATs. FEMA planned to incorporate training and credentialing for all hazards by identifying core competencies required for each IMAT position and assessing the competencies against existing task descriptions to guide the development of mandatory training and credentialing plans. According to these officials, as of March 2009, a draft of the credentialing plan was under review and they indicated that the credentialing process will be consistent with FEMA's Disaster Workforce Credentialing Plan.

At the time of our November 2008 report, Disaster Operations Directorate officials told us that FEMA was finalizing an IMAT doctrine and a Concept of Operations Plan. However, FEMA did not describe to us how it established or intended to establish target capabilities for the IMATs, which are required by the Post-Katrina Act as the basis for determining whether the IMATs consist of an adequate number of properly planned, organized, equipped, trained, and exercised personnel.<sup>33</sup>

#### **Accountability**

Our 2006 report noted that when responding to the needs of the victims of a catastrophic disaster, FEMA must balance controls and accountability mechanisms with the immediate need to deliver resources and assistance in an environment where the agency's initial response efforts must focus on life-saving and life-sustaining tasks. We reported in February 2006 that weak or nonexistent internal controls in processing applications left the government vulnerable to fraud and abuse, such as duplicative payments.<sup>34</sup> We estimated that through February 2006, FEMA made about 16 percent (\$1 billion) in improper and potentially fraudulent payments to applicants who used invalid information to apply for disaster assistance.

The Post-Katrina Act required the development of a system, including an electronic database, to counter improper payments in the provision of assistance to individuals and households.<sup>35</sup>

FEMA has established a process to identify and collect duplicative Individual and Households Program (IHP) payments. This process includes, among other things, FEMA's disaster assistance database automatically checking specific data fields in every applicant record for potentially duplicate applications, having a FEMA caseworker and a supervisor review potentially duplicate applications to determine if FEMA is entitled to collect a payment already made, and notifying the applicant of FEMA's decision to collect a duplicate payment while providing an appeal process for the applicant.

In addition, FEMA provides applicants with a copy of its application and a program guide, *Help after a Disaster: Applicant's Guide to the Individuals and Households Program*. Updated and reissued in July 2008, this guide provides applicants with information on the proper use of IHP payments.

Moreover, according to FEMA, the agency established identity verification processes, which include verifying that the applicant's social security number is valid, matches the applicant's name, and does not belong to a deceased individual. Further, FEMA reported that it has implemented procedures to validate that the address an applicant reports as damaged was the applicant's primary residence during the time of the disaster and that the address is located within the disaster-affected area.

<sup>33</sup> 3342 U.S.C. § 5144(b)(2)-(3).

<sup>34</sup> See GAO, *Expedited Assistance for Victims of Hurricanes Katrina and Rita: FEMA's Control Weaknesses Exposed the Government to Significant Fraud and Abuse*, GAO-06-403T (Washington, D.C.: Feb. 13, 2006).

<sup>35</sup> 42 U.S.C. § 5174(i).

According to FEMA's Information Technology Report submitted to Congress in September 2007 under section 640 of the Post-Katrina Act,<sup>36</sup> FEMA uses the National Emergency Management Information System to perform numerous disaster-related activities, including providing disaster assistance to individuals and communities. Although this system interfaces with FEMA's financial accounting system through a special module, FEMA has not yet taken action to ensure that applicant information collected in the system is integrated with disbursement and payment records to determine ineligible applicants.

Mr. Chairman and Members of the Committee, this concludes my statement. I would be pleased to respond to any questions you or other Members of the Committee may have.

Mr. CUELLAR. Thank you, Mr. Jenkins, for your testimony.

At this time, I recognize Mr. Gruber to summarize his statement for 5 minutes.

**STATEMENT OF COREY GRUBER, ACTING DEPUTY ADMINISTRATOR, NATIONAL PREPAREDNESS DIRECTORATE, FEMA**

Mr. GRUBER. Good morning, Chairman Cuellar, Ranking Member Rogers, and other distinguished members of the subcommittee.

It is a privilege to appear before you today on behalf of the department and FEMA. As always, we appreciate your interest in emergency management and your continued support, and particularly for FEMA's progress in implementing the provisions of the Post Katrina Emergency Management Reform Act, which I will refer to as PKEMRA.

While some system-wide reforms will take time, we are proud of the progress that we have made to date in becoming a more engaged, agile, responsive, and trusted leader and partner. I would like to highlight a few of our primary achievements and progress.

FEMA has developed and deployed incident management assistance teams that are often the earliest federal presence on scene, serving as liaisons to state and local officials, and providing situational awareness and needs assessments.

The national IMAT east and the region four IMAT were recently supported to 2008 inauguration activities. In collaboration with our other federal partners, we simplified and unified the application process for disaster assistance. We expanded our capability to register those in need of aid, while also strengthening our ability to detect and limit fraud and abuse in assistance programs.

In 2007, the president directed FEMA to establish a single application process for all the systems programs. We completed this disaster assistance improvement plan on December 31st of 2008. This online disaster relief application can be accessed at [disasterassistance.gov](http://disasterassistance.gov).

We recently completed the pilot—the public assistance pilot program, authorized by PKEMRA, and expect a report on the effectiveness of that program to be delivered to Congress in short order.

FEMA established a national emergency family register and locator system and a national emergency child locator center to help those displaced find their loved ones. We have worked with our partners to provide basic life support, first aid, and education, as well as all-hazards preparedness training to children grades one through seven, caregivers, parents, and responders.

<sup>36</sup> 6 U.S.C. § 727(b).

The agency also supports team community emergency response training, which targets high school students.

PKEMRA enabled FEMA to strengthen its partnerships that encompass the entire emergency management community through the establishment of a small state and rural advocate and a national disability coordinator.

FEMA's greatly benefited from the establishment of the National Advisory Council, which provides valuable council on a number of initiatives early in the concept development phase to solicit feedback and gain stakeholder buy-in before initiatives are completed.

In 2007, FEMA released a national response framework, which provides a clear picture of the resources available through the federal government and identifies the agencies and programs that are brought to bear in disaster response.

FEMA is implementing for the first time a national planning system that will bring consistency to planning at federal, regional, state, and local levels. FEMA has greatly improved evacuation planning capabilities. We have completed a mass evacuation and incident annex to the NRF, and a supporting supplement is under development.

Using the plan, FEMA assisted its partners with the evacuation of more than 2 million people in 48 hours in the face of Hurricane Gustav and large-scale medical evacuations from Louisiana and Texas.

Florida has successfully used a plan developed as part of FEMA's catastrophic planning initiative in preparation for Tropical Storm Fay and Hurricane Hanna.

One of FEMA's primary reforms during 2007 was empowering and increasing the capability and capacity of its regions. One of the most significant initiatives is the creation of regional advisory councils, our federal preparedness coordinators, regional operational planners, and enhanced regional response coordination centers.

FEMA's Logistics Management Directorate has contributed significantly to FEMA's forward-leaning posture by putting place contracts and interagency agreements that provide an enhanced logistics capability.

The Logistics Management Directorate is upgrading its national distribution centers, which are the core of FEMA's supply chain transformation. We have made considerable strides in contract management and the oversight aspects of acquisition, and we are committed to streamlining the process of getting disaster aid to victims and determined to be good stewards of the disaster relief fund.

To this end, in 2007, we implemented new software that communicates real-time data to case workers to prevent duplicate housing payments to applicants already receiving assistance through direct housing.

I think the success of PKEMRA rests in the fact that the legislation capitalized on the nature and the prevailing instincts and the strengths of our federated system. It has empowered FEMA.

Thank you again for having me today. I am happy to answer any questions the committee may have.

[The statement of Mr. Gruber follows:]

### **Introduction**

Good Morning Chairman Cuellar, Ranking Member Rogers, and other distinguished members of the Subcommittee. It is a privilege to appear before you today on behalf of the Department of Homeland Security (DHS) and the Federal Emergency Management Agency (FEMA). As always, we appreciate your interest in, and continued support of emergency management, specifically FEMA's progress in implementing the many reforms mandated by the Post Katrina Emergency Management Reform Act, hereinafter referred to as PKEMRA.

As you well know, PKEMRA provided the necessary provisions and guidance to help expand the scope of the agency's mission, transform it into the nation's pre-eminent emergency management and preparedness agency, and provide the means and authority to build a more nimble and flexible national emergency response system. The Act also clarified FEMA's responsibilities and its unique role within DHS. PKEMRA also greatly expanded our ability to meet our preparedness mission. We appreciate the Subcommittee's involvement in building this blueprint, which effectively positions FEMA to perform its vital role in helping our stakeholders to safeguard the Nation from disruptions by man or nature.

The shortcomings that prompted the PKEMRA clearly didn't happen overnight. The implementation of over 250 PKEMRA provisions along with the reforms from DHS and FEMA's internal organizational assessments have led to the adoption of new ways to prepare our society for a host of 21st century challenges. They have transformed the agency into a "New FEMA." By strengthening its coordination internally and with other DHS components, as well as with Federal partners outside of the Department, FEMA has improved the Nation's ability to prepare for and respond to major disasters and, in particular, those catastrophic events that exceed the considerable response capacity of our State, local and Tribal partners. Thanks to PKEMRA, FEMA has more tools and capacity to lead a risk-based, comprehensive emergency management system and address preparedness, protection, response, recovery and mitigation missions. These improvements can be seen day-in and day-out in FEMA's operations, planning, and assistance.

While some system-wide reforms will take time, we are proud of the progress we have made to date in becoming a more engaged, agile, responsive, and trusted leader and partner.

I'd like to highlight some of our primary achievements and progress:

### **Improving Response Operations, Readiness and Emergency Communications**

The operational tempo we and our partners have faced since Hurricane Katrina have given us ample opportunity to test and implement many new or enhanced operational capabilities. Upgrades to our national and regional operations centers have dramatically improved our connectivity and ability to conduct effective coordination and integration with other Federal departments and agencies and State governments. This has facilitated our ability to develop situational awareness and a common operating picture, enabling effective decision-making. The upgrades to the National Response Coordination Center (NRCC) at FEMA headquarters have given us new and improved abilities to coordinate and exchange information.

FEMA has developed and deployed Incident Management Assistance Teams (IMATs), our next generation rapidly deployable interagency national and regional emergency response "strike" teams that are often the earliest Federal presence on scene, serving as liaisons to State and local officials, providing situational awareness and needs assessments. Currently, two National and four Regional IMATs are operational. The National and Regional IMATs were instrumental in providing on-scene situational awareness during the 2008 hurricane responses. All IMATs were deployed to support the responses in Texas and Louisiana. Critical on-scene command, control, and communications support was provided by IMATs and the Mobile Emergency Response Support (MERS) for Houma, Louisiana government officials and the Mayor of Galveston, Texas during last year's hurricanes. The National IMAT-East and Region IV IMAT recently supported the 2009 Inauguration activities. FEMA also manages other disaster response teams and assets that can be rapidly deployed to support State and local response operations including Urban Search and Rescue (US&R) Task Forces, our Mobile Emergency Response Systems (MERS), and Emergency Response Teams (ERT). The IMAT hurricane deployments were complemented, for example, by Urban Search and Rescue (US&R) Task Forces that supported Search and Rescue missions—including more than 3,000 rescues in both Louisiana and Texas. FEMA can now rapidly deploy telecommunications assets during a disaster response to support communications operability and interoperability. We are upgrading outdated equipment and procuring tactical re-

sponse vehicles and have also provided direct assistance to Gulf and East Coast States in developing State and regional communications plans for hurricane season. Our MERS assets continued to provide communications support to States/locals, as well as our response teams and other interagency response teams.

#### **Improving Assistance to Disaster Affected Areas and Populations**

FEMA, in collaboration with a number of Federal partners, simplified and unified the application process for disaster survivors. We expanded our capability to register those in need of aid, to include providing mobile registration centers that can be on hand to help those without access to phones or computers, while also strengthening our ability to detect and limit fraud and abuse of assistance programs.

In 2007, the President directed FEMA to establish a single application process for all Federal disaster assistance programs. FEMA led an interagency task force in developing and delivering the Disaster Assistance Improvement Plan (DAIP) on December 31, 2008. DAIP is an online coordinated disaster application process. Disaster survivors can access the DAIP at [DisasterAssistance.gov](http://DisasterAssistance.gov).

Also in 2007, FEMA partnered with the U.S. Department of Housing and Urban Development (HUD) to create and pilot the new Disaster Housing Assistance Program (DHAP). This new program for eligible individuals and households displaced by Hurricanes Katrina and Rita is a temporary housing rental assistance and case management program administered by HUD on behalf of FEMA. The program's interaction with disaster victims is administered by HUD through its existing national network of Public Housing Agencies (PHAs). Since the partnership began, HUD and FEMA have been working together to ensure that the transition of responsibility from one agency to the other is completed as smoothly as possible. FEMA has also partnered with the Department of Health and Human Services (HHS) to create a disaster case management program that can be in place within 72 hours after a declaration and can ensure that persons affected by a disaster are connected to disaster assistance, health care, mental health, and other social services necessary to make them self-sufficient again."

In addition, FEMA has undertaken many initiatives to improve implementation of the Public Assistance Program. We have established a Public Assistance Steering Committee composed of senior Public Assistance staff in each of our 10 Regions and 10 State representatives. The purpose of the Committee is to serve as the Board of Directors for the Public Assistance Program and develop the vision, strategies and policies to ensure efficient, effective and consistent implementation of the program. We recently completed the Public Assistance Pilot Program authorized by PKEMRA and expect the report on the effectiveness of the pilot program to be delivered to Congress soon. FEMA will continue to refine its evacuee hosting guidance, and plans to complete five State hosting plans for large numbers of evacuees. These State Hosting Plans will help adjacent States that may host Gulf Coast evacuees. This effort is designed to synchronize separate State evacuation plans to create a more cohesive and unified effort. Teams engage with each State to identify requirements and capabilities, working to develop a plan that integrates shelter planning with transportation planning. The result of these efforts will be more organized, timely and better coordinated evacuation by those with their own transportation, as well as for those in need of assistance in evacuating by bus or air. FEMA is also completing enhancements to systems that support mass care and housing activities following a disaster, by implementing standard protocols and staff training for long-term recovery planning. FEMA will continue to refine plans and procedures for managing disaster assistance operations under the varying conditions of different catastrophic and extraordinary disaster scenarios.

In FY 2009, FEMA will continue to improve its plans and capabilities for managing mass evacuations and the resulting displaced populations, including additional State and local plans and development and expansion of evacuee tracking systems. The agency will also continue to improve, test and exercise its capabilities for all of its Individual Assistance functions (mass care, emergency assistance, housing, and human services).

FEMA worked with its partners, the Department of Health and Human Services (HHS) and the American Red Cross, to establish and implement a National Emergency Family Registry and Locator System and a National Emergency Child Locator Center to help those displaced find their loved ones. Through the Agency's 2008 Competitive Training Grant Program, we have awarded two grants in the amount of \$1.7 million and \$3.5 million to the American College of Emergency Physicians and the Partnership for Environmental Technology Education, respectively, to provide basic life supporting first aid and education, as well as all hazards preparedness training to children (grades 1-7), caregivers, parents and responders. The Agen-

cy also supports Teen Community Emergency Response Team (CERT) training, which targets high school students.

#### **Engaging Federal, State, Tribal, Local, and Private Sector and Volunteer Partners**

PKEMRA enabled FEMA to strengthen partnerships that encompass the emergency management community and its key communities of interest through establishment of a Small State and Rural Advocate and a National Disability Coordinator. In keeping with the Act's intent to foster engaged partnerships, FEMA also established a Private Sector Office and appointed a Senior Law Enforcement Advisor.

FEMA has greatly benefited from establishment of the National Advisory Council (NAC). The NAC is providing invaluable counsel on a number of important initiatives, and doing so earlier in the concept development phase of initiatives to solicit feedback and gain stakeholder buy-in before the initiatives are implemented. Recently, FEMA and the NAC coordinated a final review and revision of the National Incident Management System (NIMS), during which the NAC provided five areas of comments and recommendations to FEMA, all of which were welcome and endorsed by FEMA leadership. One example includes NAC members' recommendations to strengthen the system by advocating for a closer linkage between Incident Command System principles that represent best practices in emergency management and the Emergency Support Functions that operate during Federal responses to disasters. FEMA's coordination with the NAC on NIMS dramatically improved the publication and is a ringing endorsement of PKEMRA's goal of fostering partnerships that enhance the Nation's emergency management and national preparedness systems.

This strengthened partnership practice has benefited FEMA in its engagement with other key stakeholders, such as collaboration with the American Red Cross in implementing the National Shelter System. Additionally, we are working more closely with States to identify potential gaps in functions or commodities where they anticipate needing Federal support, and doing so in a manner that is tailored to an individual State's needs.

We are making strenuous efforts to incorporate the feedback, best practices and lessons learned from all of our stakeholders into our processes, procedures and planning. We have worked with State partners over the last two years to do a formal Analysis of Federal Requirements, where we cataloged Federal preparedness program requirements that were levied on State and local governments, visited a large sample of States, and solicited specific recommendations to streamline needed, or shed duplicative requirements. Our partners provided seventy-five specific recommendations that continue to help FEMA find ways to lessen the programmatic and bureaucratic burden on its partners where appropriate.

#### **Enhancing Disaster Planning and Other Preparedness Activities**

In 2007, FEMA released the National Response Framework (NRF), which provides a clear picture of the resources and assets available through the Federal government and clarifies the agencies and programs that are brought to bear in disaster response and their role in support of State and local officials.

Moving into FY 2009, FEMA's National Preparedness Directorate (NPD) will improve coordination of national exercises with State exercises, and will implement—for the first time—a national planning system focused on high-risk scenarios that will bring consistency to contingency planning at the Federal, Regional, State and local levels. By focusing on planning, exercising and evaluations, and more focused applications of grant funding, NPD will measurably lead the Nation to a higher level of preparedness.

Another major area of improvement is in Mission Assignments. During response operations, FEMA uses the interagency "Mission Assignment" (MA) process to task and reimburse other Federal Departments and Agencies that provide essential disaster response assistance. Greater emphasis has been placed on the MA process, to include development of Pre-Scripted Mission Assignments (PSMAs), a mechanism used to facilitate rapid response. In 2006, FEMA had a total of 44 PSMAs with 2 Federal agencies in place for support for Hurricane Season. Since then, FEMA increased the number of PSMAs in place to 236 with 29 agencies. This support ranges from heavy-lift helicopters from the Department of Defense (DoD), to generators from the United States Army Corp of Engineers (USACE), to Disaster Medical Assistance Teams from Health and Human Services (HHS), and Emergency Road Clearing Teams from the U.S. Forest Service.

In addition, FEMA has instituted operational planning as a core Agency competency. Since 2007, FEMA Headquarters and Regions/Area Offices have been hiring operational planners—the first time FEMA has hired a group of individuals with

this skill set—to provide the capability to perform sophisticated operational analyses, analyze trends, and improve planning for the response to ongoing and future events. Planners are currently being hired in each of the FEMA Regions and Area Offices to provide this capability in the field. At the Regional level, these planners will coordinate the development of Federal, State, and local operational plans to guide response activities and help build a national culture of preparedness. The operational planners will also facilitate and conduct regional evacuation planning.

This year, FEMA will focus on the development of operational planning capabilities at all levels of emergency management, and operational planning for the National Planning Scenarios. We will continue to increase national readiness for site-specific catastrophic events, using scenario-driven plan development processes and supporting the development of vertically and horizontally integrated Catastrophic Response Plans.

FEMA has also greatly improved its evacuation planning capabilities. We have completed a Mass Evacuation Incident Annex to the NRF and a supporting supplement is under development. For Hurricane Gustav, FEMA implemented the Gulf Coast evacuation plan which had been developed over the past two years in coordination with the State of Louisiana. Using the plan, FEMA coordinated the evacuation of more than 2 million people in 48 hours to multiple receiving States using multi-modal evacuation sources including air, train, and bus. Working with DoD, HHS, and the States, FEMA successfully coordinated large scale medical evacuations from Louisiana and Texas. More than 600 pre-arranged ambulances were available to Louisiana for Hurricane Gustav and more than 300 ambulances were made available to support Texas for the Hurricane Ike response.

In Florida in 2008, while preparing for and responding to Tropical Storm Fay and Hurricane Hanna, the State implemented and used the Lake Okeechobee Plan developed in preparation for and response to a Category 5 Hurricane in Miami. This plan was developed as part of FEMA's Catastrophic Planning Initiative.

We have also reinforced the critical and enduring need for personal preparedness, to encourage individuals to adequately prepare themselves for disaster events, recognizing that better individual preparedness translates into better community preparedness and situational resilience. At the same time, we continue to work with our partners to develop a more sophisticated culture of preparedness across America.

Moreover, FEMA has continued working with the States to identify the gap between State resources and needs. The Gap Analysis Program was developed using a consistent, national approach to determine asset gaps at the local, State, and National levels. The initial focus in 2007 was on eight areas: debris, interim housing, sheltering, evacuation, commodity distribution, medical, and communication, and fuel in 18 hurricane-prone States. The All-Hazards Gap Analysis Template is now being applied in all 10 FEMA Regions. This Gap Analysis will feed the Comprehensive Assessment System as called for in PKEMRA, which will function as a central repository for national preparedness data by integrating preparedness assessments in order to develop a more complete picture of national preparedness. It will also ensure we are not overburdening States with overlapping reporting requirements.

These assessment and preparedness-related efforts will be guided by the revision and updating of "risk-based target capabilities for Federal, State, local, and tribal governments" that are "specific, flexible, and measurable," as called for in PKEMRA. Since the release of the Target Capabilities List (TCL) in September 2007, we continue to refine the capabilities to make them more user-friendly; to provide guidance that distinguishes the appropriate level of capabilities different jurisdictions may wish to build and sustain based on their unique risks and needs; establish measurable readiness targets on which to base preparedness investments and assessments; and improve the usability of the capabilities to drive investments, equipment acquisition, plans, training, exercises, evaluation and improvement.

### **Increasing Regional Preparedness Capability, Capacity, and Coordination**

One of FEMA's primary reforms during 2007 was empowering and increasing the capacity of its regions. As the primary point of interface with States, FEMA Regions are essential to deliver on the promise of New FEMA.

One of the most significant initiatives is the new package of blended capability in the form of: Regional Advisory Councils (RACs), Federal Preparedness Coordinators (FPCs), Regional IMATs, Regional Operational Planners and enhanced Regional Response Coordination Centers (RRCCs). Moreover, FEMA established Grants Management Branches in all 10 Regional offices and embedded 20 new Grant Management Specialists in the Regions to manage Emergency Management Performance Grants (EMPG), Metropolitan Medical Response System (MMRS), and Driver' Li-

cense Security Grant Program funds. The Regions are also strengthening their ties to partners by the establishment of a Regional Advisory Committee and Regional Emergency Communications Coordination Working Groups (RECCWGs). Eight out of ten regions currently now have RECCWGs. Both of these new entities greatly expand the opportunity to communicate and exchange ideas with key constituency groups.

#### **Improving Timely Delivery of Goods and Services and Tracking**

The Logistics Management Directorate (LMD) is FEMA's major program office responsible for policy, guidance, standards, execution and governance of logistics support, services and operations. Its mission is to effectively plan, manage and sustain national logistics response and recovery operations in support of domestic emergencies and special events—to act as the National Logistics Coordinator (NLC) or Single Logistics Integrator for National incident support. LMD is organized around four core competencies: Logistics Operations, Logistics Plans and Exercises, Distribution Management, and Property Management.

LMD has worked diligently to strengthen its business processes and leverage the best practices by enhancing relationships with both the public and private sector through various initiatives for a more coordinated logistics response operation. Overall, LMD has contributed significantly to FEMA's forward leaning posture by putting in place contracts and interagency agreements (IAAs) that provide an enhanced logistics capability such as:

- Logistics Management Transformation Initiative
- Total Asset Visibility (TAV) to track supplies in transit
- National bus evacuation readiness
- Demonstration Program Logistics Capability Assessment Tool
- Ready meals and water (IAA with the Defense Logistics Agency)
- Base camp support contracts
- Single point ordering and tracking for Regions
- Supplies and services (IAA with the General Services Administration)
- Vehicle drivers and fleet management
- Vehicle maintenance

We are confident that through these initiatives, an enhanced operational capability and improved alliances with logistics partners across the Federal family and with the private sector will strengthen our ability to better manage the logistics pipeline to insure needed supplies and resources arrive at a disaster site more quickly and efficiently.

#### **Strengthening Contracting Practices to Enhance Preparedness and Accountability**

FEMA has implemented pre-positioned contracts in response to the need for enhanced planning and preparation in advance of disasters. FEMA currently has approximately 75 pre-positioned contracts in its inventory. For Gustav, FEMA activated its ground and air ambulance evacuation services contract with American Medical Response, Inc.; its rail evacuation services contract with AMTRAK; and its pre-positioned housing inspection services contract with PaRR Inspection Services.

In terms of oversight, FEMA has made considerable strides in improving the contract management and oversight aspects of its acquisition duties. It has institutionalized the use of Contract Administration Plans (CAPs) to facilitate efficient and effective contract administration and improve the agency's post-award contract execution. CAPs also promoted task order competition while ensuring that services are available expeditiously to meet critical disaster response needs, while establishing consistent enterprise-wide contract administration processes for the Contracting Officer's Technical Representatives (COTRs) in various regions. CAPs also document the agreements between program offices and the Acquisitions Management Division and serve as a guide for continual actions related to a contract administration.

The Agency has published the Emergency Acquisition Field Guide, which will ensure that non-1102 (contract specialist) personnel can effectively and appropriately contract for goods and services in an emergency situation. The guide defines the critical elements of an emergency acquisition in plain language so that any member of the disaster support team can understand and apply proper procedures. It includes information on purchase cards, program management, and contracting.

#### **Employing Better Controls to Prevent Waste, Fraud and Abuse**

While we are committed to streamlining the process of getting disaster aid to victims, we are also steadfast in our responsibility to be good stewards of the Disaster Relief Fund. To this end, in FY 2007, we implemented new software that communicates real-time data to caseworkers and the auto-determination system to prevent

duplicate housing payments for applicants already receiving assistance through direct housing.

FEMA implemented checks in the National Emergency Management Information System (NEMIS) that flag “high risk” addresses such as check cashing stores, mail drops, cemeteries, and jails. Applications with high risk addresses require an intensive review prior to the delivery of assistance to prevent potential fraud.

**Ensuring a Professional and Well-Trained Workforce with Effective Surge Capability**

Recognizing that our disaster reservists are the backbone of our agency—routinely accounting for 70 to 90 percent of any disaster response and recovery effort—FEMA created the Disaster Reserve Workforce Division in 2008. This Division has primary responsibility for the development, deployment and support of a disaster workforce ready for the national, all-hazard response needs of FEMA program managers and regional leadership. This office is led by a long-time FEMA senior executive and staffed with senior managers with leadership experience in managing other successful reserve programs.

**Summary**

An improved level of preparedness and the enhanced performance of response and recovery actions in recent disasters have demonstrated noteworthy progress in implementing the PKEMRA reforms. More effective collaboration and cooperation between all partners—Federal, State, local, tribal, and voluntary organizations—has been the cornerstone of this progress. As a prime result of the PKEMRA legislation, our Nation’s emergency response system is more anticipatory than ever; our Regions and the National Response Coordination Center have newfound capabilities, such as the ability to host daily video teleconference calls with Federal and State inter-agency partners; our national response teams are more numerous and more robust; we are more effectively pre-staging resources and commodities; and we are deploying new capacity such as our housing task force. New FEMA performs a unique national role in helping our States prepare for all hazards for all missions, and in ensuring we deliver on the key principles of effective response identified in the National Response Framework: engaged partnership; tiered response; scalable, flexible, and adaptable operational capabilities; unity of effort through unified command; and the readiness to act.

Those principles reflect the inherent characteristics of our distributed and adaptive national emergency response system. The success of PKEMRA rests in the fact that the legislation capitalized on the strengths of this system. PKEMRA provided key enablers that when fully realized will serve us well as we face the dense complex of 21st century risks.

Thank you again for the privilege of providing this report on our progress in implementing PKEMRA. I am prepared to respond to your questions.

Mr. CUELLAR. Mr. Gruber, thank you for your testimony.

At this time, I would ask Ms. Troupe to summarize her statement for 5 minutes.

**STATEMENT OF MARY TROUPE, EXECUTIVE DIRECTOR,  
MISSISSIPPI COALITION OF CITIZENS WITH DISABILITIES**

Ms. TROUPE. Good morning, and thank you for this opportunity to be here with you today. I thank you for the opportunity to address these issues and to bring more conversation to these issues.

First, let me tell you a little bit about the Mississippi Coalition for Citizens with Disabilities. We have been about advocating and working and assisting individuals with disabilities and families affected by Katrina immediately after the winds died down.

I must tell you, it has not been easy, nor is it easy today, as my organization and others are turned away at every point in our efforts. Before Katrina, we urged state emergency management agencies, FEMA, Homeland Security, and state agencies to come together and work together to form a plan that addressed the unique needs of individuals with disabilities and those with special needs, but to no avail.

We were literally told, "We have our plans, and we know what we are doing. We will tell you what you need to know when you need to know it."

Today, I am sad to report that there is still resistance, even after the lessons learned from Katrina, and we are concerned about further disaster relief, recovery, and reconstruction efforts in the Gulf Coast areas.

A disproportionate number of evacuees and survivors were and will be people with disabilities whose needs for basic necessities are compounded by chronic health conditions and functional impairments. Katrina cost tens of thousands of people with disabilities to be evacuated or displaced. People with disabilities affected by poor planning for emergencies and recovery efforts may never be able to return to their communities of origin and to their support systems.

First, concerning the positive steps that the Post Katrina Management Reform Act has forced FEMA to take, for the Disability Act advocacy committee, the establishment of the FEMA position of disability coordinator in section 513 was very important.

There were a number of excellent points mandated by the act and by the legislation, which is key to the effectiveness of the disability coordinator position, which I want to emphasize. The position was to be appointed by the FEMA administrator, and the position was to report directly to the FEMA administrator, in order to ensure that the needs of the individuals with disabilities are being properly addressed in emergency preparedness and relief and recovery efforts.

Also, the 10 responsibilities of the disability coordinator position required that the Post Katrina Management Reform Act legislation guaranteed its effectiveness.

Number one, providing guidance and coordination on matters related to individuals with disabilities.

Two, interacting with the staff of the agency, the National Council on Disabilities, the Interagency Coordinating Council on Preparedness and Individuals with Disabilities, and other agencies of the federal government, state, local, and tribal government authorities.

Third, consulting with organizations that represent the interests and rights of individuals with disabilities about the needs of these populations.

Four, ensuring the coordination and dissemination of best practices and model evacuation plans for individuals with disabilities.

Ensuring the development of training materials and curriculum for training of emergency response providers for state, and local, and tribal governments.

Promoting the accessibility of telephone hotlines and Web sites.

Working to ensure that the video program distributors, including broadcasters, cable operators, and satellites, and so forth, have accessible—are accessible to individuals with hearing and vision disabilities.

Ensuring the availability of accessibility transportation options.

Providing guidance and implementation policies to ensure the rights and wishes of individuals with disabilities are looked at during the post-evacuation residency and relocation.

Ten, ensuring that meeting the needs of individuals with disabilities are included in the components of the national preparedness system, which is established under this act.

We suggest some improvements can be made to further enhance FEMA's ability to plan for and respond to these events.

Establish the FEMA national disability coordinator with appropriate staffing and parallel structures. While the legislation established a position in the Department of Homeland Security of the national disability coordinator, that position was placed in FEMA with the Office of Equal Rights.

While the Office of Equal Rights is an entity committed to the promotion of affirmative employment, a discrimination-free workplace, and equal access to FEMA programs and benefits, and its responsibilities certainly some needs of individuals with disabilities, it does not entail the substantive obligations that this act, Post Katrina Emergency Management Reform, entrusts with the disability coordinator.

In crafting section 513, Congress sought to ensure that individuals with disabilities would have a national voice in emergency preparedness, disaster relief, and recovery—have a single OER employee to address our concerns.

Indeed, the affirmative responsibilities of the disability coordinator provide guidance, disseminate best practices, and consult with organizations. It extends far beyond the access of the OER encompasses and to the inclusion of Congress intended—10 national disability coordinator responsibilities required by legislation far exceed the capabilities of a single individual, as is now the case.

For example, the Department of Homeland Security Office of Civil Rights and Civil Liberties have five staff members. The human and services office of preparedness and emergency operation office for at-risk individuals has three staff members.

Additionally and of great concern, there are the frequent issues being voiced from across the country about the lack of access to the disability coordinator during response—of incidences and the lack of flow of information between the public and private sectors in planning, as well.

It bears repeating the legislation mandated that the national disability coordinator position report directly to the administrator, in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and relief. This is not the case.

Finally, the National Council on Disability, which is a federal agency, reports ongoing difficulty in carrying out their post-Katrina obligations due to FEMA's—communications and the lack of inclusion with—as a partner across all—emergency management.

The following steps are recommended: Establish an office of disability coordinator in FEMA which reports directly to the administrator, and establish a national support within all 10 FEMA regions in the form of regional disability coordinators—2008 former FEMA administrator Paulison in a letter accepted his recommendations—

Mr. CUELLAR. Ms. Troupe, if we can summarize?

Ms. TROUPE. Yes, I am sorry. We believe that we do need to have these regional disability coordinators established within the areas

by studying best practices in states such as California and Florida. The new administration could encourage the governor of all states also to appoint a state disability special needs coordinator.

We need experience with community organizing, knowledge of the structure of the disability and other special needs, functional and working knowledge of emergency management structure, worked in an incident command system structure regarding how to plug in all skills sets and sets and match needs from the ground.

These are some of the knowledge, skills and ability that a disability coordinator should possess.

Disability advocate leaders from across the country worked together on these issues and have asked me to convey their support to you and their willingness to work with this committee to be a part of the solution process.

Thank you.

[The statement of Ms. Troupe follows:]

PREPARED STATEMENT OF MARY TROUPE

Mr. Chairman, Members of the Committee, good morning. I am Mary Troupe, Executive Director, Mississippi Coalition for Citizens with Disabilities, and I thank you for the opportunity to appear before you and continue a conversation about the very important issues being explored here today.

First, concerning the *positive steps* that the Post-Katrina Management Reform Act (PKEMRA) has forced FEMA to take.

For the Disability Advocacy Community, the establishment of the FEMA position of Disability Coordinator in Section 513 was very important. There were a number of excellent points mandated by the PKEMRA legislation which were key to the effectiveness of this Disability Coordinator position which I want to emphasize:

the position was to be appointed by the FEMA Administrator and

the position was to report directly to the FEMA Administrator

“in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief.”

Also, the ten responsibilities of the Disability Coordinator position required by the PKEMRA legislation guaranteed its effectiveness:

“(1) providing guidance and coordination on matters related to individuals with disabilities

“(2) interacting with the staff of the Agency, the National Council on Disabilities, the Interagency Coordinating Council on Preparedness and Individuals with Disabilities, other agencies of the Federal Government, and State, local, and tribal government authorities

“(3) consulting with organizations that represent the interests and rights of individuals with disabilities about the needs of individuals with disabilities

“(4) ensuring the coordination and dissemination of best practices and model evacuation plans for individuals with disabilities;

“(5) ensuring the development of training materials and a curriculum for training of emergency response providers, State, local, and tribal government officials, and others on the needs of individuals with disabilities;

“(6) *promoting the accessibility of telephone hotlines and websites* regarding emergency preparedness, evacuations, and disaster relief;

“(7) working to ensure that video programming distributors, including broadcasters, cable operators, and satellite television services, make emergency information accessible to individuals with hearing and vision disabilities;

“(8) *ensuring the availability of accessible transportation options* for individuals with disabilities in the event of an evacuation;

“(9) providing guidance and implementing policies to ensure that the rights and wishes of individuals with disabilities regarding post-evacuation residency and relocation are respected;

“(10) ensuring that meeting the needs of individuals with disabilities are included in the components of the national preparedness system established under section 644 of the Post-Katrina Emergency Management Reform Act of

Suggested Improvements

I will now discuss improvements that can be made to further enhance FEMA's ability to plan for and respond to catastrophic incidents.

Establish the FEMA National Disability Coordinator (NDC) with Appropriate Staffing and Parallel Structures: While the Post Katrina Legislation (HR 5441) established a position in Department of Homeland Security (DHS) of the National Disability Coordinator (NDC), that position was placed in FEMA with the Office of Equal Rights.

*However*, the responsibilities envisioned by the legislation far exceed the capabilities of a single individual as is now the case.

Additionally, there are frequent concerns being voiced from across the country about the lack of access to the Disability Coordinator, during response and recovery phases of incidents, and the flow of information between the public and private sectors in planning, as well.

*Further*, the legislation mandated that the NDC position report directly to the Administrator in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief; this is not now the case.

Finally, the National Council on Disability (NCD) which is a Federal Agency reports ongoing difficulty in carrying out their Post-Katrina Act obligations, due to FEMA's poor communication and negligible inclusion with it as a partner across all aspects of Emergency Management.

I recommend the following:

Establish an Office on Disability/ Office of Disability Coordination in FEMA which *reports directly to the Administrator* with adequate authority, resources and staff for the Disability Coordinator to fulfill the responsibilities of that position as *mandated* in PKEMRA.

Establish additional support within all ten FEMA regions in the form of a Regional Disability Coordinator (RDC)

On December 5, 2008, former FEMA Administrator Paulison in a letter accepted this recommendation of his National Advisory Council (NAC); also established in the same legislation) to establish additional support within all ten FEMA regions in the form of a Regional Disability Coordinator (RDC). However these positions will not be funded until FY 2011. *A new administration could identify immediate funding to support this structure.*

Also, creation of a Regional Disability Coordinator position within each of the ten FEMA Regions would appropriately expand and enhance the work of the FEMA Disability Coordinator, both in maintaining relationships with volunteer groups and in coordinating response activities.

Several states have a senior level official or office which coordinates with such volunteer groups and the FEMA Disability Coordinator serves as a point of contact for these entities at the federal level. FEMA Regional Disability Coordinators would provide a link between these state and federal networks.

Additionally, given the number of open disasters at any particular time, response coordination responsibilities present a significant drain on the time and resources of the FEMA Disability Coordinator.

Regional Disability Coordinators would multiply FEMA personnel available to be present in Joint Field Offices to coordinate and support outreach to victims with special needs when disaster strikes.

The new administration should also encourage or mandate that each of the FEMA Region Administrators establish a Regional Advisory Council (RAC) to include a Special Needs Subcommittee as former Region II Administrator Steve Kempf, Jr. announced in August 2008. This would mirror the structure already established at the NAC level.

Similarly, looking to states such as California, and Florida, the new administration could encourage the Governors of all states to appoint a State Disability/Special Needs Coordinator.

And with at least the NDC and the RDC the new administration must ensure the most qualified individuals are selected for these posts by setting a qualification standard (KSA) with the assistance of both representatives of professional emergency management, for example, the International Association of Emergency Managers Special Needs Committee, as well as the disability community. These posts must be administrative with real-world experience applicable to overseeing field operations and operating on a regional basis:

Examples of Recommended KSA's to include, but not limited to:

- Experience with community organizing
- Knowledge of the structure of the disability and other special needs community within the region
- Functional and working knowledge of the Emergency Management structure
- Worked in an ICS structure regarding how to plug in skill sets and assets and match needs from the ground.

Include expertise in emergency preparedness, response and recovery of People with Disabilities on the Domestic Policy Council team and all other areas throughout the administration charged with emergency preparedness.

Enhance the composition and authority of the Interagency Coordinating Council formed under Executive Order 13347 to include private sector experts at the table.

Disability advocacy leaders from across the country work together on these issues and have asked me to convey their support to you and their willingness to work with this Committee to be part of the solution process; we know that there is no easy single action which will solve all the issues; however, we stress the importance of integration of people with disabilities and special needs in all phases of emergency management at the Federal and the state levels. We must create a fully-inclusive culture of preparedness that respects both the needs and the independence of people with disabilities. There is a need to do more to fulfill both the taxonomy and the spirit of the PKEMRA legislation or PKEMRA becomes merely more glib lip service; I look forward with many committed colleagues to continue this dialog; I respectfully appreciate this opportunity and want you to know that the voice heard today represents many who worked together to focus and prioritize the comments to be most effectively pared with the topic of the hearing.

Mr. CUELLAR. Okay. Thank you very much.

Let me, first of all, thank you for your testimony. We will now move into our final witness, Mr. Kaniewski, to summarize his statement for 5 minutes.

**STATEMENT OF DANIEL KANIEWSKI, DEPUTY DIRECTOR,  
HOMELAND SECURITY POLICY INSTITUTE, THE GEORGE  
WASHINGTON UNIVERSITY**

Mr. KANIEWSKI. Chairman Cuellar, Ranking Member Rogers, and distinguished members of this committee, thank you for the opportunity to testify before you today.

The topic of today's hearing, PKEMRA, intersects with many of my research interests at G.W., as well as my professional experience on the White House staff, as well as a firefighter paramedic.

My view is that the new presidential administration and Congress, policymakers should first assess how new or existing policies benefit the citizen.

The bottom line is this: Will the new policies increase our level of readiness for natural or manmade disasters? If this question cannot be answered in the affirmative, the new administration should reflect and reassess, rather than rush to implement change.

In the months following Hurricane Katrina, I began reliving my own experiences, day by day, minute by minute, and meshing those experiences with the massive research effort that had provided mountains of interview transcripts from people who had witnessed firsthand the response to the events as they unfolded.

Under the leadership of my boss at the time, Fran Townsend, we published our findings and 125 recommendations in the official White House report, "The Federal Response to Hurricane Katrina: Lessons Learned." At the White House, while my bosses, I, and my staff desperately wanted to improve our nation's response capabilities, others in the federal government saw the implementation of Katrina lessons learned as onerous, at best. There are parallels to PKEMRA here.

On that point, though we at the White House saw significant utility in coordinating with our congressional counterparts on PKEMRA, the senior leadership of DHS was largely unwilling to negotiate with either the White House or with Congress. The DHS

leadership even asked us to issue a veto threat on PKEMRA, something we at the White House would not consider.

Why would DHS leadership want the president to issue a veto threat on legislation that aimed to correct FEMA's failures from Katrina? Quite simply, they were worried that a strengthened FEMA, particularly a FEMA that would be provided with direct reporting relationship, when appropriate, to the president and the Congress, would be to the detriment of DHS.

Though we did not support this position on PKEMRA because we could not possibly recommend that the president threaten to veto a bill that would codify many of the changes that we had supported, I did respect Secretary Chertoff's view from a management perspective. After all, it was him, not me, who would have to go on television in the wake of a catastrophe and explain to the American people why FEMA failed again under his watch.

I personally saw PKEMRA not only codified many of the Katrina lessons learned recommendations that we had made, but also forced reforms that many of us knew were necessary, yet were unable to achieve on our own.

It required DHS to take the uncomfortable, but essential reforms that were necessary in the post-Katrina environment. In short, we as a nation are better off as a result of PKEMRA.

At issue is whether FEMA should be an independent agency as it once was or stay within DHS. The debate is spoken in terms of access to the president and strength of the organization.

While FEMA's place on an organizational chart is an important issue, a larger, more fundamental discussion must take place before the mission of FEMA and DHS—and the subsequent convergence or divergence—and how that affects our readiness to prepare for, respond to, and recover from disasters. In other words, policy-makers should follow the principle that organization or form of FEMA should follow its function.

Extracting FEMA could also cause bureaucratic confusion among agencies, as well as state and local officials who have labored to learn and abide by the current system's protocols. Congress would be required to provide significant legislation to redefine roles, responsibilities, and authorities, to include statutory authority and funding. Additionally, separating FEMA from DHS would result in an unknown increase in the federal budget to recreate separate governmental administration systems.

Finally, there is the less obvious, but equally important issue of employee morale. If FEMA were to be removed from DHS, staff in both agencies would likely feel the strain from yet another reorganization. Many feel that FEMA is finally a core component of DHS and any changes would crystallize the perception that FEMA is in a never-ending state of flux.

The bottom line is that consequence of extracting FEMA from DHS could lead to a lower level of national readiness to respond during disaster. Instead of focusing on current disasters and preparing for future ones, the agency would instead be hobbled with required statutory, policy, budgetary and other bureaucratic manifestations of reorganization.

As shown by Hurricane Katrina and subsequent domestic incidents, Washington has a critical, but usually limited supporting

role. The federal government cannot be a first responder, nor can it effectively manage an incident from inside the beltway.

This will not be easy, but neither was the creation of the intelligence communities—excuse me, the committees—30 years ago. Congress also needs to reorganize itself.

This committee is a testament to what needed to happen immediately following 9/11, and I encourage this committee, as well as the leadership of the House, to take the issue seriously of consolidating congressional oversight.

Looking ahead, something that we have yet to do is clearly articulate FEMA's role. For example, FEMA is currently configured as a support and coordination entity for state and local governments, but the public often believes that the organization alone is capable of providing substantial boots on the ground.

Policymakers must either confront the reality that FEMA is a disaster coordinator and appropriately manage the public's expectations or invest substantial resources to provide significant capabilities to FEMA. This would be an excellent issue for the administration's capable FEMA nominee, Craig Fugate.

I witnessed firsthand Craig in action during my many disasters that struck the state during my tenure at the White House. I was always comforted when I saw Craig's face on the other end of the video teleconference amid crises in Florida. His confidence inspired confidence in the rest of us watching him from the comfort of our Washington offices.

Should he be confirmed, I wish Craig good luck and hope that he continues to push FEMA on its upward trajectory.

Thank you. I will be happy to take any questions you may have.  
[The statement of Mr. Kaniewski follows:]

PREPARED STATEMENT OF DANIEL J. KANIEWSKI

Chairman Cuellar, Ranking Member Rogers, and distinguished members of the subcommittee, thank you for the opportunity to appear before you today. The topic of today's hearing, "Post-Katrina Emergency Management Reform Act (PKEMRA) Implementation: An Examination of FEMA's Preparedness and Response Mission," intersects with many of my research interests as well as my professional experience.

As a matter of background, I presently serve as the Deputy Director of The George Washington University Homeland Security Policy Institute (HSPI) at The George Washington University, a position I previously held from 2002–2005. During my three-year absence from HSPI, I served on the Homeland Security Council staff at the White House, most recently as Special Assistant to the President for Homeland Security and Senior Director for Response Policy.

Just one month after arriving at the White House, I witnessed first hand the failures of the response to Hurricane Katrina from a bird's eye view. What I saw appalled me and as the event unfolded I committed to myself, and more importantly the nation, that I would do everything in my power to ensure we did not repeat the tragic failures of Hurricane Katrina.

Let me first caveat my remarks by saying that clearly there were failures at all levels of government during Hurricane Katrina. For the purposes of this hearing, I will focus my remarks on the federal level, but in no way do I mean to imply that only the federal government was to blame; all levels of government must understand the lessons learned from the catastrophe and implement changes to ensure we do not again experience such a tragedy.

Preparedness at all levels of government prior to an incident is important because any one broken "link" in the response "chain" imperils the national response sys-

tem.<sup>1</sup> When the system fails, as it did during Hurricane Katrina, the responsibility of managing the incident falls solely to those near the incident site—usually the first responders. As one of those first responders, I understand that such a situation puts those of us charged with saving lives in an untenable situation. Without the resources of the federal government, local and state governments will quickly become overwhelmed. Such a cascading failure can make a *significant* event a *catastrophic* one.

The Federal Emergency Management Agency (FEMA) has been put to the test since the failed response to Hurricane Katrina in 2005. In 2008 alone, the agency faced numerous natural disasters across the country, including very active hurricane and tornado seasons, intense wildfires, and widespread flooding. In fact the 2008 hurricane season broke two records: it was the first time that six consecutive tropical cyclones made landfall on the U.S. mainland and the first to have a major hurricane (Category 3 or higher) form in five consecutive months.<sup>2</sup> Unlike the response to Hurricane Katrina, federal, state, and local officials were prepared, garnering resources well ahead of the storm and executing timely and effective evacuations. In the aftermath of the storms there were more stories of triumph than tragedy: largely successful responses at all levels of government.<sup>3</sup>

The triumph is not just in lives saved because of evacuations and other measures, but also in the ability of the national response system—including the convergence of local, state and federal efforts—to support response and recovery to the benefit of America's communities.

The government's improved response to natural disasters is more than a feel-good story. As America's homeland and national security policy is guided by a new presidential administration and Congress, it is an important reminder for policymakers to first assess how new or existing policies benefit the citizen. The bottom line is this: will these new policies increase our level of readiness for natural or manmade disasters? If this question cannot be answered in the affirmative, the new Administration should reflect and reassess, rather than rush to implement change.

Today I will first outline the evolution of policies following Hurricane Katrina. Then I will explain why FEMA should remain within the Department of Homeland Security (DHS). Next I will demonstrate the need for stronger homeland security regions. I will then mention the role of the Secretary of Homeland Security. And finally I will turn to the need to consolidate congressional oversight of DHS.

#### ***Katrina Lessons Learned/PKEMRA***

In the months that followed Hurricane Katrina, I began re-living my own experiences, day by day, minute by minute, and meshing those experiences with the massive research effort that had provided mountains of interview transcripts from people who had witnessed first hand the response to the events as they unfolded. It was through this prism that I helped to separate the facts from fiction, and pinpoint the crux of the problems. Under the leadership of my boss Fran Townsend, we published our findings and 125 recommendations in the official White House report *The Federal Response to Hurricane Katrina: Lessons Learned*.

I should mention that the Katrina Lessons Learned report was published without any formal review by departments and agencies. For a public report issued by the White House to lack such review, in my assessment, is unprecedented. Officials from departments and agencies were interviewed, but there was no guarantee that the opinions they held would be published; it was the facts that we cared most about, and as one of the only writers of the report, it was largely up to a handful of us to draw the conclusions and make the recommendations. Given the desire to give an objective, and often critical, view of the federal government's response, I agree with my boss Fran Townsend's decision, and so did the President.

Following the publication of this report, I became part of the small team at the White House overseeing the implementation of the recommendations in the report, eventually becoming the leader of this team. I give this background because it is directly applicable to the topic at today's hearing. You see, though I, my bosses, and

<sup>1</sup>I use the term "national response system" to include federal, State, local, county, tribal, volunteer and private sector entities; essentially any individual or organization involved in responding to an incident.

<sup>2</sup>"Atlantic Hurricane Season Sets Records," *National Oceanic and Atmospheric Administration* (November 26, 2008), [http://www.noaa.gov/stories/2008/20081126\\_hurricane\\_season.html](http://www.noaa.gov/stories/2008/20081126_hurricane_season.html) (accessed March 13, 2009).

<sup>3</sup>"Kind Words for New FEMA," *USA Today* editorial (October 2, 2008), <http://blogs.usatoday.com/oped/2008/10/kind-words-for.html> (accessed March 13, 2009) and Fiore, Faye, "FEMA Says It's Applying Hurricane Katrina's Lessons to Gustav," *Los Angeles Times* (September 2, 2008), <http://www.latimes.com/news/nationworld/nation/la-na-fema2-2008sep02,0,7688528.story> (accessed March 13, 2009).

my staff desperately wanted to improve the nation's response capabilities, others in the federal government saw the implementation of the Katrina Lessons Learned recommendations as onerous at best.

Some agencies stepped up and accepted their responsibility not just because the White House told them to do so, but because they truly believed it would improve our national response system. Luckily for all of us, FEMA was one such agency. I can take little credit for this. The credit is instead due to the leadership of FEMA Administrator David Paulison and his deputy Harvey Johnson. They were able to move forward with their vision of "New FEMA," which implemented the White House recommendations, and took them even further. They did this against the resistance of some FEMA staff who had seen reform come and go over the years. This reform, however, stuck. Why? One reason was the leadership of Paulison and Johnson. But even they couldn't move against both internal resistance from some of their subordinates and the more daunting resistance from their leadership at DHS. It would be Congress, not the White House that would overcome this feud.

About the time that Paulison and Johnson were developing a strategy for "New FEMA," Congress was completing its review of the Hurricane Katrina response failures. There was increasing talk that there would soon be reform legislation. White House staff, including myself, reviewed proposed language from congressional staff and provided feedback in an informal capacity.

Unfortunately, though we at the White House saw significant utility in coordinating with our congressional counterparts, the senior leadership of DHS was largely unwilling to negotiate with either the White House or Congress. The DHS leadership even pressed the White House to issue a veto threat on PKEMRA; something that we would not consider. Why would DHS leadership want the President to issue a veto threat on a legislation that aimed to correct FEMA's failures during Katrina? Quite simply they were worried that a strengthened FEMA, particularly a FEMA that would be provided a direct reporting relationship, when appropriate, to the President and Congress, would be to the detriment of DHS. Though I disagreed with their view, DHS leaders were acting rationally: Secretary Chertoff himself often expressed to us that he knew better than anyone what would happen if FEMA failed to effectively respond to the next disaster. Thus he should have complete responsibility to make sure that FEMA was up to the job. Though we did not support his position on PKEMRA because we could not possibly recommend that the President threaten to veto a bill that would codify many of the changes we supported, I did respect his view from a management perspective. After all, it was him, and not me, who would have to go on television in the wake of a catastrophe and explain to the American public why FEMA failed again under his watch.

I personally saw that PKEMRA not only codified many of the Katrina Lessons Learned recommendations that we had made, but it also forced reforms that many of us knew were necessary, yet were unable to achieve on our own. It required DHS to take the uncomfortable, but essential reforms that were necessary in the post-Katrina environment.<sup>4,5</sup> In short, we as a nation are better off as a result of PKEMRA.

#### **FEMA within DHS**

The debate over the FEMA's placement within the executive branch is a well-worn one. In 2002, during the debate over the legislation creating DHS, it became a polarizing issue.<sup>6</sup> The debate again surfaced in 2006 as Congress considered, and

<sup>4</sup>For a summary of Post Katrina Emergency Management Reform Act implementation efforts, see, "Implementation of the Post-Katrina Emergency Management Reform Act And Other Organizational Changes," *U.S. Department of Homeland Security* (updated October 7, 2008), [http://www.dhs.gov/about/structure/gc\\_1169243598416.shtm](http://www.dhs.gov/about/structure/gc_1169243598416.shtm) (accessed March 13, 2009). See also, Bea, Keith, "Federal Emergency Management Policy Changes After Hurricane Katrina: A Summary of Statutory Provisions," *Congressional Research Service* RL33729 (December 15, 2006), <http://www.fas.org/sgp/crs/homsec/RL33729.pdf> (accessed March 13, 2009).

<sup>14</sup>Relyea, Harold C., "Organizing for Homeland Security: The Homeland Security Council Reconsidered," *Congressional Research Service* RL22840 (November 26, 2008), <http://www.fas.org/sgp/crs/homsec/RS22840.pdf> (accessed March 11, 2009).

<sup>5</sup>For an assessment of overall progress of implementing the Post Katrina Emergency Management Reform Act, see, Skinner, Richard, "Statement before the Committee on Homeland Security and Government Affairs, (April 8, 2008), [http://hsgac.senate.gov/public/\\_files/040308Skinner.pdf](http://hsgac.senate.gov/public/_files/040308Skinner.pdf) (accessed March 11, 2009).

<sup>6</sup>Keith Bea outlines the key issues in the 2002 debate on the placement of FEMA fostered by the 107th Congress. See Bea, Keith, "Proposed Transfer of FEMA to the Department of Homeland Security," *Congressional Research Service* RL31510 (July 29, 2002), [http://www.law.umaryland.edu/marshall/crsreports/crsdocuments/RL31510\\_07292002.pdf](http://www.law.umaryland.edu/marshall/crsreports/crsdocuments/RL31510_07292002.pdf) (accessed January 12, 2009).

ultimately passed, PKEMRA.<sup>7</sup> So it is not surprising that once again policymakers and pundits alike are calling for various proposals to keep FEMA in DHS or move it out.<sup>8</sup>

FEMA is an easy target; its four-letter acronym is often used as shorthand to convey all of Hurricane Katrina's response failures. But FEMA is just one piece of the preparedness puzzle. The organization is relatively new by historical standards, having been created as an independent agency in 1979. Before that time, disaster-response activities were scattered amongst some 100 federal agencies. In 2003, FEMA was brought under the DHS. Regardless of the agency's placement in the federal bureaucracy, there are fundamental misunderstandings of FEMA's role and mission, which drive false expectations by the public.

At issue is whether FEMA should be an independent agency as it once was, or stay within DHS. The debate is spoken in terms of access to the president and strength of the organization.<sup>9</sup> While FEMA's place on an organizational chart is an important issue, a larger, fundamental discussion must take place about the mission of FEMA and DHS—and their subsequent convergence or divergence—and how that affects our readiness as a nation to prepare for, respond to, and recover from disasters. In other words, policymakers should follow the principle that organization—or form—of FEMA should follow its function.<sup>10</sup>

The mission of FEMA is “to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.”<sup>11</sup> FEMA itself is more of a facilitator and coordinator of federal support to state and local officials, rather than a massive federal department with organic response assets. It relies heavily on other federal departments and agencies, contractors, and state and local assets to perform its coordination mission.

So even if state and local officials request the federal government's help, there are no “FEMA” ambulances, helicopters, and buses. FEMA coordinates amongst all levels of government, contracts with the private sector, and leverages personnel and resources from the federal government. Sometimes this system works well, as is the

<sup>7</sup>The Post Katrina Emergency Management Reform Act of 2006 became law on October 6, 2006. See, “Can Congress Rescue FEMA,” *The Washington Post*, (June 26, 2006), A19, <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/25/AR2006062500645.html> (accessed January 12, 2009).

<sup>8</sup>For example, Congressman James Oberstar (D-MN) authored a memorandum to then President-elect Barack Obama calling for FEMA to be “re-instated as an independent cabinet-level agency reporting directly to the President,” because it has “consistently failed to meet the expectations of the American people and Congress” since its incorporation into the Department of Homeland Security—a place where its mission has been “distorted by a focus on terrorism” and where state, local, and its relationship with local and state entities has been “impeded.” See, Oberstar, James, “Memorandum: An Independent FEMA,” as obtained by Congressional Quarterly (December 17, 2008), <http://homeland.cq.com/hs/flatfiles/temporaryItems/20081218FEMAletter.pdf> (accessed January 12, 2009). However, Representative Bennie Thompson (D-MS), called for FEMA to stay where it is as quoted in a recent interview: “Pulling FEMA out of the department will once again fracture the nation's ability to respond to all types of catastrophes—whether natural or man-made,” he said. Instead of “focusing on dismantling the department,” the emphasis should be on “strengthening its components.” See, Fowler, Daniel, “Oberstar Appeals to Obama to Create an Independent FEMA,” *Congressional Quarterly* (December 18, 2008), <http://homeland.cq.com/hs/display.do?docid=2999304&sourcetype=31&binderName=news-all> (accessed January 12, 2009). Most recently, Richard Skinner, the Inspector General of the Department of Homeland Security, determined that FEMA should stay within the Department of Homeland Security. See, Skinner, Richard, “FEMA: In or Out?” *Office of the Inspector General, U.S. Department of Homeland Security* OIG-09-25 (February 2009), [http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG\\_09-25\\_Feb09.pdf](http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_09-25_Feb09.pdf) (accessed March 11, 2009).

<sup>9</sup>For example, the National Association for Emergency Managers calls for FEMA to become “an independent agency reporting directly to the President.” See, “IAEM-USA Requests for Consideration by the President-elect,” *IAEM* (December 8, 2008), <http://www.iaem.com/committees/GovernmentAffairs/documents/IAEMrequestsforconsiderationbyPres-Elec120808.pdf> (accessed January 12, 2009). Additionally, the *New York Times* believes that under the Department of Homeland Security, FEMA “degraded into a patronage-ridden weakling,” and lifting it to the level of the President's cabinet will redeem it from this status. See, “Fixing FEMA,” *New York Times* editorial (November 24, 2008), <http://www.nytimes.com/2008/11/24/opinion/24mon3.html> (accessed January 12, 2009).

<sup>10</sup>Cilluffo, Frank J. and Daniel J. Kaniewski, Jan P. Lane, Gregg C. Lord, and Laura P. Keith, “Serving America's Disaster Victims: FEMA: Where Does It Fit?,” *Homeland Security Policy Institute Issue Brief* (January 13, 2009), [http://www.gwumc.edu/hspi/pubs/HSPI\\_FEMA\\_IssueBrief\\_13.09.pdf](http://www.gwumc.edu/hspi/pubs/HSPI_FEMA_IssueBrief_13.09.pdf) (accessed March 11, 2009).

<sup>11</sup>Federal Emergency Management Agency website, “About Us,” online at: <http://www.fema.gov/about/index.shtm> (accessed January 12, 2009).

case with the greatly strengthened relationship between FEMA and the Department of Defense; other times not, such as when Louisiana's pre-established contract for buses fell through as Gustav approached, forcing the State and FEMA to quickly consider other options. Thus, FEMA is only as strong as its weakest link, with "FEMA" failing if a contractor, or a local, state or federal agency, stumbles."<sup>12</sup>

Consistent with its coordination mission, FEMA led the effort to revise the 2005 National Response Plan (NRP) and replace it with the National Response Framework (NRF), a guide for how the nation "conducts all-hazards response—from the smallest incident to the largest catastrophe."<sup>13</sup> The NRF establishes a revised "response doctrine" and calls for "engaged partnerships" amongst all levels of government, non-governmental organizations and the private sector. I oversaw this project at the White House and can confidently say that it is more than just a simple name change; The NRF is an example of FEMA's capacity to serve as a facilitator at the national level, while simultaneously empowering local, state, and federal authorities to respond quickly and efficiently during crises.

Finally, despite the organizational changes over the years, leadership seems to have been a significant contributing factor for FEMA's successes or failures. FEMA leaders such as James Lee Witt have been lauded for their leadership of the agency. Director Witt inherited the beleaguered agency in 1993 following a widely criticized response to Hurricane Andrew the year before.<sup>14</sup> Infamously, FEMA Director Mike Brown failed to respond effectively to Hurricane Katrina. Most point to Brown as the culprit for the failings, but some feel FEMA's placement in DHS contributed as well. However, Brown's successor David Paulison reinvigorated FEMA's role and capabilities by making dramatic changes inside the organization as well as building bridges within DHS, the executive branch, and with state and local officials. The results were clear: much improved federal responses to the many natural disasters that occurred under Paulison's leadership.

If DHS is to execute its incident management responsibilities, it should be vested with the critical preparedness and response missions of FEMA. Without FEMA, DHS will have little statutory or organizational capability to effectively manage the response to an incident.<sup>15</sup> With the Secretary of Homeland Security representing FEMA's interests, FEMA has a powerful advocate within the executive branch. As a Cabinet Secretary, the DHS Secretary has the standing to raise issues with and garner the attention of his or her Cabinet peers and the President. The Secretary can also direct DHS resources to the FEMA mission during a disaster.<sup>16</sup> Additionally, as provided for in the subject of today's hearing—PKEMRA—FEMA has a direct line to the President during crisis.<sup>17</sup>

Extracting FEMA could also cause bureaucratic confusion among agencies, as well as state and local officials who have labored to learn and abide by the current system's protocols. Congress would be required to provide significant legislation to re-

<sup>12</sup>Kaniewski, Daniel J., "Not Your Father's FEMA," *Washington Times* (September 10, 2008), <http://washingtontimes.com/news/2008/sep/10/not-your-fathers-fema/> (accessed March 11, 2009). See also, "Regionalizing Homeland Security: Unifying National Preparedness and Response," *Homeland Security Policy Institute* (June 30, 2006), <http://www.gwu.edu/hspi/pubs/hspiregion.pdf> (accessed March 11, 2009).

<sup>13</sup>"National Response Framework: Frequently Asked Questions," Federal Emergency Management Agency, [http://www.fema.gov/pdf/emergency/nrf/NRF\\_FAQ.pdf](http://www.fema.gov/pdf/emergency/nrf/NRF_FAQ.pdf) (accessed January 12, 2009).

<sup>14</sup>"Coping With Catastrophe," National Academy of Public Administration for the U.S. Congress and the Federal Emergency Management Agency (February 1993), [http://71.4.192.38/NAPA/NAPAPubs.nsf/17bc036fe939efd685256951004e37f4/78f9632b737c132b85256886007eb4bc/\\$FILE/93-01-Coping+with+Catastrophe.pdf](http://71.4.192.38/NAPA/NAPAPubs.nsf/17bc036fe939efd685256951004e37f4/78f9632b737c132b85256886007eb4bc/$FILE/93-01-Coping+with+Catastrophe.pdf) (accessed January 12, 2009).

<sup>15</sup>For a full listing of FEMA statutory authority, see, "Robert T. Stafford Disaster Relief and Emergency Assistance Act," P.L. 93-288, as amended, 42 U.S.C. 5121-5207, and Related Authorities, Federal Emergency Management Agency (June 2007), [http://www.fema.gov/pdf/about/stafford\\_act.pdf](http://www.fema.gov/pdf/about/stafford_act.pdf) (accessed January 12, 2009).

<sup>16</sup>In just one example, FEMA worked effectively with another DHS agency, Customs and Border Protection, which provided a "real-time streaming aerial video of damaged levees, roads, bridges and oil terminals over a secure Internet feed to 1,200 personnel from multiple federal agencies who worked . . . at the Federal Emergency Management Agency's joint field office. Federal officials in Washington, as well as state and local officials throughout Louisiana, could access the feed." Brewin, Bob, "Customs and Border Protection Lends Aerial Vehicle for Hurricane Damage Assessment," *Next Gov.Com* (September 5, 2008), [http://www.nextgov.com/nextgov/ng\\_20080905\\_9890.php](http://www.nextgov.com/nextgov/ng_20080905_9890.php) (accessed January 12, 2009).

<sup>17</sup>See, P.L. 109-295, &sect; 611(11), new HSA Sec. 503(c)(4)(A), 120 Stat. 1397, [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109\\_cong\\_public\\_laws&docid=f:publ295.109.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ295.109.pdf) (accessed January 12, 2009).

define roles, responsibilities, and authorities, to include statutory authority and funding. Additionally, separating FEMA from DHS would result in an unknown increase of the federal budget to re-create separate governmental administration systems.

Finally, there is the less obvious, but equally important issue of employee morale. If FEMA were to be removed from DHS, staff in both agencies would likely feel the strain from yet another reorganization.<sup>18</sup> Many feel that FEMA is finally a core component of DHS and any changes would crystallize the perception that FEMA is in a never-ending state of flux.<sup>19</sup>

The bottom line is that the consequence of extracting FEMA from DHS could be a lower level of national readiness to respond to disaster.<sup>20</sup> Instead of focusing on current disasters and preparing for future ones, the agency would instead be hobbled with required statutory, policy, budgetary and other bureaucratic manifestations of reorganization.

### **Local, State, and Regional Response**

The vast majority of incidents that occur daily in the U.S. are handled at the local level. Some require assistance from surrounding local jurisdictions, counties, the State, or multiple States. Few involve federal assistance.

For example, an industrial fire will most often be handled by a local fire department. However, if this is a particularly large industrial fire the local fire department may request assistance from neighboring jurisdictions to help douse the flames. If specialized assets, such as hazardous materials teams, are not available locally the local fire department may request these assets from the county or the state. If the industry is considered nationally critical infrastructure; has significant environmental, human or economic impacts; or a terrorism nexus is suspected, specialized federal assets may be requested to assist.

As shown by Hurricane Katrina and subsequent major domestic incidents including hurricanes, tornados, wildfires, and industrial and infrastructure accidents, "all response is local."<sup>21</sup> Washington has a critical, but usually a limited supporting role. The federal government cannot be a first responder; nor can it effectively manage an incident from inside the Beltway. Local officials that determine critical response requirements and make informed judgments about unmet needs are absolutely essential for the national response system to be effective. Having a regional office to coordinate with the local and state officials ensures that federal response meets the needs of the victims, and is not duplicative or, worse, in competition with local and state response efforts. A standing presence builds relationships among local, state, and federal responders and other public officials. Regional offices have the potential to reach every level, from the individual citizen and communities to federal officials in Washington. Indeed, "regionalizing our national preparedness system is the very linchpin that connects all of the elements of our preparedness and response."<sup>22</sup>

Though FEMA regions exist, there are no true "homeland security" regions that translate all the headquarters elements of DHS to the state and local levels. And since DHS does not even have its own consolidated regional offices, there remains much more work to be done if the regional offices are to include the full spectrum of homeland security functions, including core homeland security missions of other departments and agencies.<sup>23</sup> Finally, public-private partnerships are the buzz in

<sup>18</sup> See, Baker-McNeil, Jena, "Cabinet-level FEMA Not Needed," *The Heritage Foundation Web-Memo #2153* (December 4, 2008), <http://www.heritage.org/Research/HomelandSecurity/wm2153.cfm> (accessed January 12, 2009).

<sup>19</sup> For more on FEMA at HSPI, see Paulison, David, "FEMA: Capabilities, Coordination and Capacities for the Future," remarks at *Homeland Security Policy Institute* (January 13, 2009), [http://www.gwumc.edu/hspi/hspi\\_paulison\\_01.13.09.pdf](http://www.gwumc.edu/hspi/hspi_paulison_01.13.09.pdf) (accessed March 11, 2009).

<sup>20</sup> Grorud, Larry J., Harold A. Schaitberger, and William Jenaway, "Letter to President-elect Obama," Congressional Fire Services Institute (December 22, 2008), [http://www.iafc.org/associations/4685/files/ntlRegResp-gr\\_1AFC-IAFF-CFSI-081222-LtrToPresElectObamaReFEMA.pdf](http://www.iafc.org/associations/4685/files/ntlRegResp-gr_1AFC-IAFF-CFSI-081222-LtrToPresElectObamaReFEMA.pdf) (accessed January 12, 2009).

<sup>21</sup> Borrowing the line "All politics is local" from former Speaker of the House Tip O'Neill.

<sup>22</sup> Cilluffo, Frank J., "Hurricane Katrina: Recommendations for Reform," testimony before the Committee on Homeland Security and Government Affairs, U.S. Senate (March 8, 2006), [http://www.gwumc.edu/hspi/congress/March8\\_06.htm](http://www.gwumc.edu/hspi/congress/March8_06.htm) (accessed March 11, 2009).

<sup>23</sup> The U.S. Government Accountability office agrees. See, Dalton, Patricia A., "Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness," *U.S. Government Accountability Office* (GAO-04-1009) (September 15, 2004), <http://www.gao.gov/new.items/d041009.pdf> (accessed March 11, 2009). See also, Carafano, James and David Heyman, "Homeland Security 3.0: Building a National Enterprise to Keep America Safe, Free, and Prosperous," *The Heritage Foundation SR23* (September 18, 2008), [http://www.heritage.org/Research/HomelandDefense/upload/sr\\_23.pdf](http://www.heritage.org/Research/HomelandDefense/upload/sr_23.pdf) (accessed March 11, 2009).

Washington, but there is little evidence that significant efforts are underway at the regional level.<sup>24</sup>

### ***Role of the Secretary of Homeland Security***

The Secretary of Homeland Security, just like all other Cabinet secretaries, is the CEO of her organization; and managing a large federal bureaucracy is not an easy job. But the Secretary of Homeland Security has an additional duty, unique to her position: she is the “principal Federal official for domestic incident management,” responsible for coordinating among all federal departments and agencies to ensure an effective response to man-made and natural disasters.<sup>25</sup> This interagency role is most important during catastrophic incidents when virtually every federal department and agency contributes to the federal response. This means that the Secretary must view other federal departments and agencies as equivalent stakeholders in the response, not just those agencies within DHS. Though DHS possesses substantial response capabilities, it certainly does not have all of the capabilities required to respond to incidents of every scope and magnitude. Capabilities outside DHS such as aircraft at the Department of Defense, medical response teams at the Department of Health and Human Services, and hospitals in the Department of Veterans Affairs network, for example, are equally important to the federal response as those assets located within DHS.

Congress should emphasize the Secretary’s interagency incident management role, and consider measures to further clarify this role. One suggestion I wish to offer is for the Deputy Secretary to be responsible for coordinating internal DHS agencies during an incident, thereby freeing the Secretary to coordinate response efforts with external departments and agencies. I feel that this action would better delineate the Secretary’s dual roles.

### ***Congressional Oversight***

Prior to 9/11, I was on staff here in the House of Representatives as a Homeland Security Fellow. In this capacity I conducted research on congressional coordination for homeland security. The answer to me was as obvious then as it is today: there are too many committees, each with competing priorities that have oversight of DHS. I had proposed a House Select Committee on Homeland Security in June 2001, and subsequently published my findings in February 2002.<sup>26</sup> As you know, the House Select Committee on Homeland Security became a reality on June 19, 2002 with the adoption of H. Res. 449 during the 107th Congress.<sup>27</sup> Then, for several years thereafter I published policy papers and op-eds calling for the consolidation of committees that I had earlier described.<sup>28</sup> Now after a three-year absence from writing and speaking on this issue, I again call upon the Congress, and particularly the House, to consolidate congressional authorizations and oversight under a single committee. This is almost so rational that I find little need to explain the need.<sup>29</sup>

<sup>24</sup> Cilluffo, Frank J., “Hurricane Katrina: Recommendations for Reform” testimony before the Committee on Homeland Security and Government Affairs, U.S. Senate (March 8, 2006), [http://www.gwumc.edu/hspi/congress/March8\\_06.htm](http://www.gwumc.edu/hspi/congress/March8_06.htm) (accessed March 11, 2009).

<sup>25</sup> “Homeland Security Presidential Directive 5: Management of Domestic Incidents,” (February 28, 2003), <http://www.dhs.gov/xabout/laws/gc1214592333605.shtm#1> (accessed March 13, 2009). See also, “Homeland Security Act of 2002,” P.L.107-296, (November 28, 2002), <http://www.dhs.gov/xlibrary/assets/hr5005enr.pdf> (accessed March 13, 2009).

<sup>26</sup> Kaniewski, Daniel J. “Create a House Select Committee on Homeland Security and Terrorism,” *Journal of Homeland Security* (February 2002), <http://www.homelandsecurity.org/newjournal/articles/kaniewskilegislative.htm> (accessed March 12, 2009).

<sup>27</sup> “To establish the Select Committee on Homeland Security,” H.Res. 449 (June 19, 2002), [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107\\_cong\\_bills&docid=f:hr449eh.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_bills&docid=f:hr449eh.txt.pdf) (accessed March 13, 2009).

<sup>28</sup> Cilluffo, Frank J. and Daniel J. Kaniewski, “Consolidating the House’s Homeland Security Efforts: The Time To Act is Now,” *Homeland Security Policy Institute Issue Brief* (December 29, 2004), [http://www.gwumc.edu/hspi/news/HS\\_Jurisdiction\\_Report\\_for\\_109th\\_Congress.pdf](http://www.gwumc.edu/hspi/news/HS_Jurisdiction_Report_for_109th_Congress.pdf) (accessed March 11, 2009). See also, Cilluffo, Frank J. and Daniel J. Kaniewski, “Commission’s Proposals Fall on Deaf Ears,” *Roll Call* (August 16, 2004), [http://www.gwumc.edu/hspi/pubs/rc\\_08-16-04.pdf](http://www.gwumc.edu/hspi/pubs/rc_08-16-04.pdf) (accessed March 13, 2009); Kaniewski, Daniel J., “War Requires Homeland Panels’ Attention, Too,” *Roll Call* (March 24, 2003).

<sup>29</sup> Crowley, P.J. “Safe at Home: A National Security Strategy to Protect the American Homeland, the Real Central Front.” *Center for American Progress* (February 2008), 62, [http://www.americanprogress.org/issues/2008/02/pdf/safe\\_at\\_home.pdf](http://www.americanprogress.org/issues/2008/02/pdf/safe_at_home.pdf) (accessed March 11, 2009); Peters, Catherine McIntire, “Congressional Oversight of Homeland Security Comes Under Fire Again,” *Government Executive* (July 30, 2008), [http://www.govexec.com/story\\_page.cfm?articleid=40599&ref=rlink](http://www.govexec.com/story_page.cfm?articleid=40599&ref=rlink) (accessed March 11, 2009); Chertoff, Michael, “Letter to Representative Peter King on Time and Resources DHS Devotes to Congressional Inquiry,” *U.S. Department of Homeland Security* (September 4, 2007), <http://www.dhs.gov/>

Continued

The only aspect that I wish to add to this now after having participated in the debate for more than seven years is the role of the White House in the contemporary debate. During my time at the White House we considered committee consolidation as a policy priority on a few occasions, but given the competing priorities and the increasingly tense relations between the Hill and the White House, it was clear to all at the time that this issue could not have conceivably been a priority for the President. Now, with a new President, during a time of unified government, again the talk inside the Beltway has turned to the potential for the President to call upon Congress to reform itself. While I see this as a noble thought, it is unrealistic to think that the President would expend his political capital to make this rather wonky proposal a priority, especially given the crises domestic and abroad. I believe that reform must come from within, with the Congressional leaders taking the initiative and working with the stakeholder committee chairmen and ranking members. It will not be easy, but then again neither was the creation of the intelligence committees 30 years ago. But that doesn't mean it isn't necessary.

To quote our December 2004 HSPI issue brief on the subject:

Now is the time to act. Congress must not let its homeland security efforts remain unfocused and dispersed. Consolidation of authority under a single permanent standing committee is the best answer to a problem that has already persisted two years too long.<sup>30</sup>

More than four years later, there's still no better time than now to fix this problem.

### **Looking Ahead**

There is little controversy over the fact that since Hurricane Katrina, FEMA has demonstrated substantial progress. The challenge for those on both sides of the debate will be to demonstrate that this progress will not be lost, benefits will be realized and that opportunity costs will not outweigh the benefits. Such a discussion could take place during the upcoming Quadrennial Homeland Security Review.

Something that has yet to be done is to clearly articulate FEMA's role. For example, FEMA is currently configured as a support and coordination entity for state and local governments, but the public often believes that the organization alone is capable of providing substantial "boots on the ground." Policymakers must either confront the reality that FEMA is a disaster coordinator and appropriately manage the public's expectations, or invest substantial resources to provide significant capabilities to FEMA. This would be an excellent first step for the Administration's capable FEMA nominee, Craig Fugate. I witnessed first hand Craig in action during the many disasters that struck the state during my tenure at the White House. I was always comforted when I saw Craig's face on the Video Teleconference amid crises in Florida; his confidence inspired confidence in the rest of us watching him from the comfort of our Washington offices.

Looking back to what HSPI Director Frank Cilluffo testified to in March 2006, he properly captured the issues of a post-Katrina FEMA: "Our problem is not one of organizational design—the requisite policy and law exists. The challenge is one of management and leadership. The future leadership of FEMA must understand that they are part of an all hazards preparedness team—that response and recovery complement preparedness and protection. FEMA supports a system of systems—our focus must be on fixing what is wrong with the four major functions originally housed within FEMA: preparedness, response, recovery, and hazard mitigation. Therefore, the debate should not center on FEMA—it must be focused on what's needed from the perspective of the "customer"—those on the frontlines charged with the awesome responsibility of turning victims into patients and survivors. There are numerous customers with different needs: disaster victims, first responders, state and local governments, the faith-based community, and the private sector. What they have in common is the need to receive the right "thing" (service, equipment, personnel, or relief supply) at the right time and in the right place. This requires inter- and intra-agency coordination among all levels of government and the private sector. Therefore form must follow function, with a clear chain of command,

*xlibrary/assets/sectr-chertoff-king-congressionaloversight-20070904.pdf* (accessed March 11, 2009).

<sup>30</sup> Cilluffo, Frank J. and Daniel J. Kaniewski, "Consolidating the House's Homeland Security Efforts: The Time To Act is Now," Homeland Security Policy Institute Issue Brief (December 29, 2004), 3, [http://www.gwu.edu/hspi/news/HS\\_Jurisdiction\\_Report\\_for\\_109th\\_Congress.pdf](http://www.gwu.edu/hspi/news/HS_Jurisdiction_Report_for_109th_Congress.pdf) (accessed March 11, 2009).

unencumbered by bureaucratic obstacles and based upon timely and effective supply chains enabling the response effort.<sup>31</sup>

Thank you for your time and I will be happy to answer any questions you may have.

Mr. CUELLAR. Thank you again for your testimony.

I want to thank all, also, the witnesses.

And at this time, I remind each member that he or she will have 5 minutes of questioning the panel. I will recognize myself for 5 minutes of questioning.

Mr. Skinner, your testimony indicates that FEMA performed relatively well in most of the recent disasters. Is FEMA stronger now than it was in 2005 or even in the 1990s, when it was independent?

Mr. SKINNER. In our opinion, most certainly. As I pointed out in my statement, when FEMA came into DHS, it brought with it many of its own material weaknesses. And if you look back at many of the reports issued not only by my office, but by GAO and other studies, we learn that FEMA was never prepared to deal with a catastrophic-type disaster and all the issues there associated or the response requirements that are associated with that type of an event, for example, a national housing strategy, an evacuation strategy, a strategy to go with those with handicaps.

And the difference—what we are seeing today is the fact that the spotlight is on FEMA. Katrina put the spotlight on FEMA. The failures that we observed during that period of time should not have been a surprise to anyone.

The only difference between Katrina and prior disasters is that they were just amplified. It was larger. FEMA would have prepared no—would not have prepared any better had it been an independent agency or prior to its incorporation into DHS.

People tend to right now—I hear that it is because of its incorporation into DHS is one of the causes for its poor performance, and that is simply not true. Because of the Post Katrina Act, that is bringing structure and operational capability back to FEMA. And its reorganization, its all-hazards emergency management approach is now making—it is stronger now than it ever was in its history.

Mr. CUELLAR. In your February 11th memorandum to the secretary, Napolitano, and you—the subject in or out, there are two—in the conclusion, you talk about two points that were important.

One, if you can just elaborate how it takes years to have a complex organization developed, number one. And then the other point is, on success, what is more important? Is it the organizational structure? And that can apply for any organization. Or is it the leadership that is provided?

Could you comment on those two?

And, Mr. Jenkins, if you want to add on those two points, too.

Mr. SKINNER. Organizational structure and placement, of course, is important, but it shouldn't—but organizations in all academics, if you study in organizations, you see that there always will be an informal organization. You are going to—an organizational struc-

<sup>31</sup> Cilluffo, Frank J., "Hurricane Katrina: Recommendations for Reform," testimony before the Committee on Homeland Security and Government Affairs, U.S. Senate (March 8, 2006), [http://www.gwumc.edu/hspi/congress/March8\\_06.htm](http://www.gwumc.edu/hspi/congress/March8_06.htm) (accessed March 11, 2009).

ture is just a reflection of the personality and the management that has been put in place, the leadership been put in place.

Very, very important to have strong leaders in place that have an understanding of those that they are leading. I don't expect to be a leader over in Iraq, nor should we expect people to leading FEMA in an area of emergency management that do not have that expertise or those capabilities.

Leadership is very important. Organizational structure is, in my opinion, is not as important. What concerns me here is that we are just going through several reorganizations, starting with DHS in 2003, then again with the reorganization 2 years later under Secretary Chertoff, then again with the reorganization as a result of the lessons learned from Katrina.

And I think it is time to let the dust settle. Let's grow some roots. We have now clear direction under the Post Katrina Reform Act that can guide us, that insulates and protects FEMA. And I think, by staying within FEMA, letting it grow, and using the capabilities that exist within FEMA will make it a stronger organization.

Mr. CUELLAR. Okay.

Let me—do you want to finish, or add to this, Mr. Jenkins? And then I have one general question, and I will pass it on.

Mr. JENKINS. I would just make two points. One is, I agree with Mr. Skinner. I think that organization is necessary, but not sufficient.

On the other hand, the organization is important, because it really needs to align clearly with the missions that they have been defined so that they can carry those missions out.

But the leadership is absolutely critical. I think that the fact that Mr. Paulison had the respect that he did in the emergency management community and the interpersonal skills that he had in his experience made an enormous difference in FEMA's ability to make the progress that it is made.

So I agree with Mr. Skinner, as well, that the—neither one are sufficient unto themselves. You need both. And I would also agree that you can have the best organization in the world, but if you don't have the leadership that can make it happen, it doesn't—it is not going to get you there.

Mr. CUELLAR. Right. Thank you.

Question—and give myself a little bit of extra time, and I will share the same thing to all of the members, give them the same courtesy—are there any actions that Congress can take legislative to further strengthen FEMA? Because, like anything else, there is always fine-tuning that comes along, as we see the impact on the environment.

Mr. Skinner, Mr. Jenkins, and, of course, Ms. Troupe, you gave us a few of the suggestions. I appreciate that.

And, Mr. Kaniewski, also.

So, Mr. Gruber, also.

So if you can just—each of you just highlight what legislative actions we should take to make FEMA stronger.

Mr. SKINNER. Well, with regards to the reform act, I think maybe you might want to go back and take a look at some of the restrictions we put on our—FEMA's ability to contract and subcontract,

the 65 percent rule. I appreciate—and everyone understands what the intent of that rule is, but I don't think that that rule in itself is going to encourage or cause businesses—small businesses to have equal footing with the large firms and, in fact, it may actually impede their ability to get contracts or subcontracts, and at the same time it may impede the state and FEMA's ability to provide timely response.

I think what—two things—two points I would like to make with regards to, what can Congress do now? One is to continue to support FEMA and invest in its development and its growth.

Secondly, we need to discontinue or stop tweaking with its organization and talking about reorganization, taking FEMA in or FEMA out. That is having a debilitating effect on the staff within FEMA—not just FEMA, but within DHS, and that has a domino effect down at the state and local levels.

The thing, I think, that Congress should be looking at right now—and these are lessons learned from Katrina, Ike, Gustav, and lessons learned even prior to its incorporation into DHS, is the Stafford Act. I think we might—that needs major overhaul. It is 30 years old. And through the course of the last 30 years, we build bureaucratic rules, roadblocks, and regulations that are hard to interpret, are misinterpreted, and actually restrict FEMA's ability to deliver its programs in a timely, effective and efficient manner.

I think we ought to take steps—this is a great opportunity to step back and take a look at that bill. What we might want to—particularly what I am interested in is taking a look at how we deliver our public assistance program. We need to get the community, the locals and the states more actively involved. They need to become owners of their own recovery.

We should be taking a performance-based approach, as opposed to a project-based approach, to helping communities recover. There are certain—a lot of issues within the Stafford Act, I think, that needs to be examined. It is not a Band-Aid approach, but a wholesale review of the Stafford Act and possibly rebuilding the Stafford Act.

Mr. CUELLAR. Is there a way to make some changes to the Post Katrina Act on the act of—using that as a vehicle, instead of the Stafford Act? Or do we still have to go and make changes with the Stafford Act? Do you see what I am trying to get at?

Mr. SKINNER. I see where you are going. I don't want to pretend to be an expert on—on the laws that—or how the Congress does—but, yes, I have seen many changes. Incidentally, I started working with FEMA in 1991, so I have a long history with them. And during that course of time, I have seen a lot of changes made to the Stafford Act through other mechanisms.

During the 1990s, it was done primarily through the appropriations process. So I don't see that there would be any impediment doing that through amendments to the Post Katrina Reform Act.

But it is not a Band-Aid approach. You really need to take a look at—take a global approach to this whole thing and how we are approaching it, but we need to start thinking about, what is the end game? What do we intend to accomplish here after a disaster and maybe simply the entire process?

Mr. CUELLAR. Right. And let me—so I can go ahead and pass my time on to—could I ask Mr. Skinner, Mr. Jenkins, Mr. Gruber, Ms. Troupe, and Mr. Kaniewski—could you all sit down with our staff and give us some very specific changes, legislative changes?

Let's forget about generalities and then go into very specific—and I would ask you to work with our staff and make sure with all staffs, make sure that we get some very specific changes.

Again, I guess I will go back to my 30-day timeline and ask you all to do that within 30 days.

Mr. SKINNER. I would be glad to. We are prepared to do that.

Mr. CUELLAR. But, again, specific, very specific.

Okay, and I am asking all five panel members to coordinate with our staff.

At this time, I will go ahead and recognize the ranking member, the gentleman from—Mr. Rogers for his 5 minutes-plus.

Mr. ROGERS. Thank you, Mr. Chairman.

Mr. Gruber, you made reference to a small state and rural advocate in your opening remarks. Tell me more about that position, where it is, and what it does.

Mr. GRUBER. The position, of course, is in FEMA reporting to the administrator. And the intent was to have—

Mr. ROGERS. Reports directly to the administrator?

Mr. GRUBER. Yes, to have an advocate in FEMA that would be able to address the needs specifically of rural areas and the smaller states, to provide assistance, for example, in the disaster declaration process. So it was an intent to have a representative there that made sure that the balance was struck between advocacy for rural areas of the nation or smaller states.

Mr. ROGERS. And how is that working?

Mr. GRUBER. I think it has worked very effectively. I think that it is not just, obviously, the advocate. It is a—and I think we talked about a leadership and organizational structure. It is also changing culture in the organization.

It is an ability to, I think, based on not only what PKEMRA has done for us and other legislative changes, to think in a clearer way, to be able to articulate the needs and disaster declaration process more effectively than we have done in the past, a lot of discussion about transparency, about providing assistance to that process.

So I think, again, it is not just the advocate; it is an overall process that has helped to make those procedures more transparent.

Mr. ROGERS. Great, thanks.

Ms. Troupe, first, I like the way you talk.

Ms. TROUPE. Thank you.

Mr. ROGERS. It is uncommon for me to get—

[Laughter.]

Ms. TROUPE. And I work so hard at it.

Mr. ROGERS. I am up here with all these Yankees, and when I hear you talk, it just gives me a warm, comfortable feeling.

Ms. TROUPE. Well, let's go have sweet tea after this. How about that?

Mr. ROGERS. I hear you. Sounds like a winner to me. Tell me, I would like you to put a face on what you were describing in your statement about how FEMA seemed to be callous to the needs of

those individuals with disabilities post-incident. Give me one or two examples in your experience where you saw that demonstrated.

Ms. TROUPE. Well, first of all, the population was not prepared and is not prepared even now. We are still—as I said in my statement, we are still having—you know, “We will let you know what the plans are and what we want you to do when we want you to do it.”

Mr. ROGERS. But who got that response? I guess is what—I am trying to put a face on it and give it a human degree.

Ms. TROUPE. Okay. Organizations such as mine that were working with individuals, as I said, we tried to meet with FEMA and emergency management and so forth to work on plans and to bring the unique issues of the disability and the special needs populations and—

Mr. ROGERS. So you are talking in a planning, not in—event?

Ms. TROUPE. In the planning. And then in the stages of the evacuation. There were no plans, so there were no stages to the evacuation. And I will have to say, even in Gustav, it was better to some extent, but we still had a lot of problems with accessible transportation, people actually knowing where they are going.

For instance, I am in Jackson, Mississippi. And with Katrina, within 24 hours, our population had doubled. We were not prepared for that. And as we started looking for housing, we started looking for places for people to go, for assistance for people, we were not prepared for that. FEMA was not prepared for that. Homeland Security was not prepared for that. The city wasn't prepared for that. And we still are not prepared for that.

Mr. ROGERS. Well, I would urge you to visit with this small state and rural state advocate and see if that person can help you get some attention to your needs. And if not, I would like to hear back from you.

Ms. TROUPE. Well, then we also have a disability coordinator.

Mr. ROGERS. Well—

Ms. TROUPE. And that—they have some—

Mr. ROGERS. —obviously, you haven't been getting a lot of results—

Ms. TROUPE. Exactly.

Mr. ROGERS. —with the disability coordinator. That is why I say, I ask you to go—since you are, like me, from a small, rural state, I would like to know if you are finding that this advocate is, in fact, an advocate for your needs.

I would like to ask Mr. Skinner, you know, first, I want to amen everything you said about letting the dust settle and roots grow into the ground with FEMA. There has been enough reorganization, and I think it is terribly—the thought of reorganizing again or, worse, taking FEMA out of DHS.

But I was struck by the fact—and I think it was echoed by Mr. Jenkins and Mr. Gruber, that you made the point—and you do have a long history with FEMA—that FEMA was not prepared for a catastrophic incident prior to coming to DHS and dealing with Katrina and having to grow and mature.

Why even have a Federal Emergency Management Agency if it is not prepared for a catastrophic event? Was it just that we didn't realize it wasn't prepared or that that was seen as not its role?

Mr. SKINNER. I believe that they understood that was its role. And, yes, they did realize they were not prepared. The argument that was often presented at least to—it was my understanding that it was a cost-benefit analysis issue. That is—

Mr. ROGERS. So you have a Federal Emergency Management Agency, but you don't really want to spend the money to make it what it needs to be?

Mr. SKINNER. And—

Mr. ROGERS. And they knew that?

Mr. SKINNER. And the bar would be set depending on the nature of the disaster. For example, Andrew set a new bar. Then Loma Prieta—or not Loma Prieta, but the Northridge earthquake raised the bar even a little bit higher. The Oklahoma incident raised the bar. The New York attacks raised the bar.

So it was—a lot of it was budget-driven. The cost to sit down and to start preparing the nation and not just the federal government, but the states and the locals, and all the activities and issues associated with preparing for—for example, dealing with disabilities—the disabled population, mass transportation—evacuation, housing, things of that nature, were very costly.

There was efforts early on, I believe, when they became in DHS to start studying some of these issues, but it was—I think it was the budget that was driving the costs down, which prohibited them to start thinking in those terms.

Ms. TROUPE. Congressman, if I might speak to that a little bit, too, is that I think—you know, cost keeps coming up, but I also think that it is very important for us to realize that, when you are dealing with certain populations, such as the disability and special needs population, it is imperative that these—that FEMA and Homeland Security or whomever, that they work with these communities, that they work with these advocates, and that they work with these organizations that know these people, know where they are, know what their needs are.

And that also will address, in many ways, the costs, because we do a lot of work with ADA. And sometimes we have people tell us all the time, well, it costs so much to do this, that, and the other. Let us come and show you what you can do for lots of less money and how you can really and truly help people and keep them safe, instead of putting them—moving—in many cases, what happens, they move them out of harm's way into harm's way.

Mr. ROGERS. Right. Well, you know, I think what Mr. Skinner just described pretty vividly in the growth and the maturation of FEMA was that basically it was the horrors of these occurring incidents that forced the country to spend the money it needed and, obviously, the worst horror being Katrina. It forced the country to recognize that it had to make FEMA an organization that could deal with a catastrophic incident, which is what it should have been from the beginning.

And that is why I keep asking you to put a face, talking about—you know, tell us about somebody who had a disability that was stranded, or injured, or got killed, or whatever. That is what I was talking about a while ago.

I want to ask right quick, Mr. Gruber, are we doing a better job post-Katrina—and I will tell you why—about prepositioning and

preparing in advance for what we are going to do after the incident?

I mean, when I went down to New Orleans, Mississippi and Alabama, the coastal areas after Katrina with the speaker, Hastert at that time, Leader Pelosi, we had a large delegation. And what we heard everywhere was, the things the local governments wanted most was for us to get out of their business and let them pre-arrange contracts for debris removal, for all the services that they now realize they need, whether it is, you know, brought to them—before their mind about how—what they would need post-event.

Let us get out of their way and not say, “The only way you get funding is if you use our contractor who may be coming from Texas or somewhere.” Have we done a better job of getting out of the locals’ way and saying, “You can prearrange these contracts at calm times, at arm’s-length deals, and then we will work with you to compensate you”?

Mr. GRUBER. Yes, sir. I think that is an important point. That advanced contracting, whatever can be done on behalf of the local community and the state government is to all of our advantage, to have them have the capacity and the capability that they need to deal with these events.

But we also know—we have done very deliberately since Katrina a gap analysis, where we work with the states to determine where there are specific functions or commodities where we would anticipate they would need federal help.

So where they can accommodate and address specific requirements, whether it is through debris removal or feeding or others, we have much clearer understanding, working with the state and local communities, about their posture so that then we can take advantage of the capability we have in our distribution system or our advanced contracting or in our pre-scripted missions assignments to fill where there might be shortfalls in the local or state capacity.

Mr. ROGERS. Last question. Would you agree with that, Mr. Kaniewski? You talked a little while ago about this relationship between the state and locals and the Feds with that observation. Have we gotten out of their way?

Mr. KANIEWSKI. Absolutely. I think the national response framework document has gone a long way to enforce that, which is that the expectations are set. FEMA supports state and local officials. It is the state and local officials that ask and direct FEMA when they need assistance.

Mr. ROGERS. Thank you.

I yield.

Mr. CUELLAR. Thank you, Mr. Rogers.

At this time, the chair will recognize other members for questions that they may wish to ask the witnesses. In accordance with our committee rules and practices, I will recognize members who were present at the start of the hearing based on the seniority of the subcommittee, alternating between majority and minority. Those members coming in later will be recognized in the order of their arrival.

At this time, the chair recognizes for 5 minutes the gentlewoman from California, Ms. Richardson.

Ms. RICHARDSON. Thank you, Mr. Chairman.

My first—I have three questions, so if we could be as brief as possible in the answers, because I would like to get them all done.

Mr. Jenkins, you have my first question. Back on September of 2007, you had published in the national preparedness guidelines that we have still yet failed to develop the guidelines to assess target capabilities and to identify the capability gaps throughout the federal, state and local preparedness and response capabilities.

Could you let us know where we are on track to begin to address that?

Mr. JENKINS. We have a report that will come out in April that is going to address that in detail. And because it is in draft, I can't say exactly what it is going to say, but I will say that it is not complete, still not complete, and it still needs work.

Ms. RICHARDSON. So what are we going to do to complete? Because given the fact that I come from a district that is considered on the list of many criterias, whether it is the two ports that bring forth 45 percent of the entire nation's cargo, whether it is an airport, whether it is a water treatment facility that we have, on and on and on, having this addressed now is important.

Mr. JENKINS. I agree. And we do have some—we will have recommendations in that report on what needs to be done and to speak this up a little bit.

Mr. ROGERS. A little bit in—when was this originally due?

Mr. JENKINS. Well, they started this in—we reported this in 2005 initially. And they were sort of in the process. They had identified the target capabilities. They had not identified measures for the target capabilities, that is, what the performance measures were.

That sort of got the inside track by Katrina, that effort got—Katrina and got us started again in late 2006, 2007. They are—have a goal—FEMA has a goal—and I think Mr. Gruber can correct me if I am wrong—but they have a goal of completing—the revision of the target capabilities in the metric study end of 2010 or 2011.

Ms. RICHARDSON. So that would be 5 or 6 years later?

Mr. JENKINS. Right.

Ms. RICHARDSON. Okay. So I would just like to express for the record on this committee that I find that to be very poor.

My second question has to do with—and if you could get us a copy of the report as quickly as possible in April—my second question is to Mr. Skinner or Mr. Gruber relating to section 671.

It talks about at the focal point with FEMA and the ECPC is, among other things, to set as the focal point of the information clearinghouse for federal interagency communications efforts. I will tell you that, again, I live in a district and represent a community where I had to recently fight through the appropriations process to have Signal Hill, one of my smaller police departments, to have operable radios.

So I would like to understand from you the memorandum of understanding among the federal agencies has yet to be finalized. Moreover, the ECPC has not fulfilled the statutory requirement of submitting an annual strategic assessment regarding the federal coordination to advance operable and interoperable capabilities nearly 3 years since the enactment of this act.

Mr. Skinner or Mr. Gruber?

Mr. SKINNER. That is something that our office has not studied to date. And I think Mr. Gruber might be in a better position to comment on that.

Mr. GRUBER. We have been working hard, with Congress's help, obviously, on the challenge that interoperable communications present. I think, to date, through our grant programs, for example, states have spent—state and local governments have spent over \$2.8 billion.

We have set up regional emergency communications, working groups. We have 8 of 10 of those estimated in our regions. We have a person charged with that responsibility at the region. In two of the regions, one person was just hired. The second region is about to hire their person, so we can establish a working group.

We are working very hard with our office of emergency communications in the department, another element of the department. They attend those working group meetings. The national communications system has hired personnel specifically charged with responsibilities to help coordinate on a regional basis with private-sector entities, so we are making progress, but it is one of the greatest challenges, I think, we face.

The interoperable communications problem, Mr. Chairman, those we have talked about just in the past, is a very significant—states have all worked on state communications, interoperable plans. We have used those. They have been peer-reviewed, so—

Ms. RICHARDSON. Do you intend to make this a priority with the secretary?

Mr. GRUBER. I can tell you that we have heard and we have submitted to the secretary in the action directives that she posed out information about what we are doing in interoperable communications. I am confident she will have guidance for us about the priority that this deserves.

Ms. RICHARDSON. Okay, and finally—and I am now out of town, Mr. Jenkins. As I said, I represent a district that has often had major earthquakes, Long Beach being one of them. In your testimony, you point to the catastrophic incident annex, to the national response plan, and it has not been finalized.

Mr. JENKINS. The annex has been done. It is the supplement, the operational supplement to the annex which provides much more detail about the response and how it should be done and who should be—that is what is not completed. The annex has been completed, but it is the operational supplement that puts real meat on the bones that has not been completed.

Ms. RICHARDSON. And when can we expect to see them meet that?

Mr. JENKINS. Mr. Gruber, I think, is better positioned to answer that than I am.

Mr. GRUBER. We are working with our disaster operations directorate and my directorate of national preparedness to update the execution timeline, the transportation schedules that are in that document. We worked through our—what is called our emergency support function leaders group.

We are going out to the various departments and agencies that are all in that group to provide input back for that update process, so I think we are talking probably later this summer. It is a very

detailed and large-scale document, although it is relatively current, because it was originally published in 2006, so it is really a matter of an update to the document, but we are actively working on that.

Ms. RICHARDSON. Okay. We look forward to these reports as quickly as possible.

Thank you.

Mr. CUELLAR. Thank you, Ms. Richardson.

At this time, I recognize the gentleman from Louisiana, Mr. Cao, for 5 minutes.

Mr. CAO. Thank you, Mr. Chairman.

Thank you, Ranking Member, for this hearing.

First of all, let me convey my appreciation and gratitude for everything that FEMA has done for the Second Congressional District in the state of Louisiana.

However, I do also have issues concerning FEMA. And it seems to me that FEMA has been viewed, fairly or not, as an organization in opposition rather than a partner in the rebuilding process.

Mr. Skinner, I fully support everything that you have said, and I would like to know from you whether or not this problem—is that a problem of leadership or is that inherent within the Stafford Act?

Mr. SKINNER. I think it is inherent in the Stafford Act in how it has been interpreted over the last 30 years and the guidelines and the rules that have been just added on, added on over 30 years. That, coupled with the fact that the opportunity for misinterpretation of the rules, different interpretations of the rules, training of the staff that are on the ground, kicking the tires, and actually interacting with the locals and dealing with some very tough, complex questions.

That is why I suggest that—I don't think we ought to want to just react to individual problems that we encounter, whether it be in Louisiana or whether it be in Texas or whether it be in California, but instead we need to step back and take a look as to what we want to see to be the end game. What do we want to see at the end of the recovery process? How can simplify the process? How can we engage and turn over or give ownership to the recovery effort, to the locals, and to the state?

And I think that is where I believe the attention or our emphasis should be right now, coupled with, also, preparedness, mitigation, those other issues, as well, that I would be willing to talk about and I will talk about with the staff very shortly.

Mr. CAO. And this question goes to the panel, whoever has knowledge in connection with this question. I have lived through the post-Katrina recovery in New Orleans for the past 3-1/2 years. And it seems to me that there has been or there has been a lack of communication between the different federal agencies in the recovery process.

It seems to me that there is no coherent recovery plan out there from which the different agencies can work together in order to help a region rebuild, for example, HUD, SBA, EDA, and FEMA. I would like to know, FEMA as an agency, how can it assist in coordinating the different federal agencies in the recovery process?

Mr. GRUBER. Sir, I will be happy to take a first stab at that. Of course we have an emergency support function that is part of the national response framework. It talks about long-term recovery.

And we will tell you that the Post Katrina Reform Act tasked us with developing a strategy for recovery and, just as late as last week, I was meeting with SBA, HUD, Health and Human Services, other departments and agencies that would have that active partnership in recovery talking specifically about, how would we develop a counterpart to the national response framework that would lay out a roadmap for recovery that is comparable?

I would argue that it is a more complex issue, as you well know, as you have lived through it, but it obviously deserves the doctrine and the structures and the authorities that address recovery in the broadest sense.

Ms. TROUPE. I would like to state that, within working with the disability community, that regional disability coordinators within each of the 10 FEMA regions would be very beneficial, because these 10 regional disability coordinators could work with these entities and help them to know what the needs are and to plan for the recovery, as well as plan for the emergency situations, but also to plan for the recoveries of these populations.

These are some of the most vulnerable populations, and I would dare say have been, for FEMA and other organizations, especially FEMA, have been the most difficult to work with. And it is because of the lack of knowledge of these populations.

Mr. CAO. And I have one last question to ask. I have been talking with my staff to come up with a plan to rebuild the Second District. And we are approaching the rebuilding process one issue at a time. And I would just like to ask for, Mr. Gruber, your opinion, or Mr. Skinner, or whoever, might have the knowledge to assess what is in this process.

We are trying to, let's say, tackle the first issue of criminal justice in the Second District. And I would like to sit down with all of the federal agencies along with the state, along with the city and see, how can each agency contribute in—with respect to just one issue? And then we can progress to health care and see how can all of these agencies contribute in this whole rebuilding process.

Let's have EDA sit down and say, "We can do this," FEMA sit down and say, "We can do this," HHS sit down and say, "We can do this," and set a timeline with respect to when to do it, how much money each agency is going to allocate, what is the function of the state, how can the state contribute, how can a city contribute. What do you see in that approach?

Mr. GRUBER. Maybe I will just take a first stab at that, sir. Obviously, that makes great sense. We look forward to working with your staff on that.

I think you know, since you were visiting with the secretary and Acting Administrator Ward, their commitment in that regard. And we would look forward, I think, partnering with the Department of Justice as appropriate when it comes to the criminal justice issue, Health and Human Services and others, to work with your staff to address those issues.

Mr. SKINNER. Under the Stafford Act, as it is now structured, you are almost forced to address everything on a project-by-project basis. And that is what I proposed maybe we start looking at the Stafford Act and step back and look outside the box.

And the approach that you are taking is something that I think that would be an end-game type of approach. It would be performance-based. For example, in your school district, if you had 10 schools and 5 of them were destroyed, do we want to project-by-project rebuild each school or do you want to take and look at the education as a category or as a function as a whole?

What do we want when we are finished? Do we want 10 schools or do we only want 5 schools or 2 schools to service our community? And you should be in a position—the locals should be in a position then to make those decisions. And that would hold true, also, for example, in law enforcement or any other category that—part of your infrastructure rebuilding.

We need to look out—we need to step outside the box and rethink how we want to approach this whole business of recovery.

Mr. CUELLAR. Mr. Chairman, if you will allow me just one short follow-up question, Mr. Skinner, so basically, in what you just said, do we have to amend the Stafford Act first before we can approach addressing the issue of recovery one category at a time?

Mr. SKINNER. It would appear that we would, but I think, also, that the secretary and the administrator of FEMA may have—and I would have to look at what the issues are—does have a lot of flexibility, but we shouldn't have to keep doing this after every disaster.

It appears that, every time we have a disaster, we are treated as the first time we are doing it with the—it is the first time we are reacting or responding or assisting state and local governments to respond and recover from a disaster.

Depending on what the issues are, you may have to do it project by project. I think Corey might be in a better position to interpret some of the provisions of the public assistance program in the Stafford Act, but there are flexibilities that you—alternatives that you may want to explore, but we don't want to do this after every disaster. We need to fix the Stafford Act so we don't have to do this 5, 6, 7 times a year.

Mr. CAO. Thank you very much.

Thank you, Mr. Chairman.

Mr. CUELLAR. Thank you, Mr. Cao.

At this time, I would like to recognize the gentlewoman from the state of Nevada, Ms. Titus, for 5 minutes.

Ms. TITUS. Thank you, Mr. Chairman.

I would like to ask Mr. Skinner a question, please. As you know, the Post Katrina Act called on FEMA to strengthen its field offices. Well, I represent Las Vegas, and Las Vegas is certainly unique and has unique challenges.

Along one street, we have the pyramids of Egypt, we have the Eiffel Tower, we have a circus big top, and we have the Doge Palace. So we have certain challenges.

But we are in with the region nine, and that field office is based in Oakland, and that is almost 600 miles away. In addition, this field office is charged with a region that ranges from Guam to Arizona, and that is an area that encompasses 386,000 square miles, with a lot of variety.

So Mr. Jenkins stated that the regional emergency communications coordination working group for this region has never even

been formed, while some of the others have met a number of times, some, I think, eight times since Post Katrina, the act was passed.

So I want to know why this group doesn't have—at least have this coordination working group, how it can possibly deal with the variety in that large and diverse of an area, and what we can do to be sure that these regional field offices are really accomplishing what they are set up for, using Las Vegas as an example for needs of unique planning?

Mr. GRUBER. Well, ma'am, let me start by saying, you know, the regions have grown significantly since the Post Katrina Emergency Management Reform Act. Let me just give you a few examples, but specifically to your point about the emergency communications working group.

The region just in January hired their emergency communications coordinator, so they have every intent of beginning the meetings for the working group. We needed to have the coordinator in place before we did that, so that was the first step in that process.

Ms. TITUS. Now, where will that person be located? I am sorry.

Mr. GRUBER. It will be at the regional office in Oakland. I will say, though, that we are working, again, with others, the Office of Emergency Communications and other entities, to partner in those efforts, so it is not just the regional staff alone.

I might also offer to you that we have positioned in each one of the regions a federal preparedness coordinator and staff to support them. So now we have—which we have never had before—is an individual that is responsible for serving as the integrator for all of our preparedness programs.

We have new grant staff in the regions. We have new operational planners in the regions. So there is a more robust capability than there has been in the past to serve the needs of all the states and their regions.

Ms. TITUS. How about this particular region?

Mr. GRUBER. Yes, ma'am—

Ms. TITUS. Besides just the coordinator?

Mr. GRUBER. Yes, ma'am. They have the federal preparedness coordinator, the operational planners, new grant staff, so they have grown in strength like the other regions.

Ms. TITUS. Mr. Jenkins?

Mr. GRUBER. We can give you the specifics, certainly, if you would like those.

Ms. TITUS. I would like to see that. I would like to see just what role Las Vegas is playing in determining some of these plans that you have for a region that is as diverse as Guam and the Las Vegas strip.

Mr. GRUBER. Yes.

Ms. TITUS. If I could just kind of continue along the lines about the unique nature of Las Vegas, Mr. Jenkins, you wrote that great improvements have been made in the area of emergency communications among the different governmental levels, and you made a small note concerning the involvement of the private sector.

Well, in Las Vegas, we have some of the most qualified personnel and highest technology for private security of any place in the world. Everybody knows about the eye in the sky in Las Vegas.

I wonder, what is being done to try to coordinate with that private-sector security that we can take advantage of? Because I think they do an awfully good job. That might be something that FEMA could learn from.

Mr. JENKINS. Well, it is—I think emergency communications, as Mr. Gruber said, is one of the most challenging, because it has been approached largely as an issue of equipment, and it is really an issue of governance. It is an issue of, what are the needs? And how are we going to develop those? Who is going to be involved? And that has been the big challenge.

And it is certainly important to know what the range of capabilities are that could be used. I mean, we have national communications system which is essentially a partnership with private telecommunications firms, and then we have the state emergency management plan.

So one of the—where this can really come in is the office of emergency communications provides technical assistance to states and regions in developing their emergency communications plans. And then one of the things that is supposed to take account of is not only public assets, but private assets, and where they can be used.

So they should be incorporated—those kinds of issues should be incorporated and considered in the state emergency communication plans that were submitted by the states in April. And then the Office of Emergency Communications provides training, in terms of developing those, as well as technical assistance. So that is where it comes in.

But I would agree with you that that is an important component of emergency communications.

Ms. TITUS. Thank you, Mr. Chairman.

Ms. TROUPE. If I might—excuse me, within the communication realm that we are talking here to, it is a very important that we also remember that we need to make these communications across the board accessible, whether it be alternate formats or whether it be with different languages and interpreting, also. This needs to be a major priority.

Ms. TITUS. Interoperability, it seems to be a problem, too.

Thank you, Mr. Chairman.

Mr. CUELLAR. Thank you very much, Ms. Titus.

At this time, I would like to recognize the gentleman from Missouri, Mr. Cleaver, for 5 minutes.

Mr. CLEAVER. Thank you, Mr. Chairman.

Mr. Chairman, I think I would put my colleague, Ms. Titus', southern accent alongside that of Ms. Troupe. I think my colleague should get special consideration having lived in Las Vegas and still able to speak southern.

Mr. Skinner, I was talking with a reporter from the Kansas City Star, my hometown, Kansas City, Missouri, and all of the newspapers are in trouble. I think there are about nine on a list that probably won't be in business next month, including some of the largest newspapers.

And he was telling me how troublesome it is for him to do his writing, his daily column, because, you know, no matter how profound it is, the reality is there that any day they could walk in and

say, "You know, the paper is closing down," because newspapers are not making money.

I am wondering if that is the same thing happening at—in homeland security with FEMA. I mean, what are the employees realizing that there is discussion going on about whether or not FEMA should be here or there or anywhere, whether they are in or out, whether all of that talk is somehow creating some morale issues inside FEMA? Could you respond to that?

Mr. SKINNER. Yes, it is creating morale problems. And it is demoralizing within the organization, because, after spending 12 years there, I still have a lot of good friends there and I interact with many of those people on almost a daily—or at least weekly basis, in one fashion or another.

And it is not only just the issue of where we are going to be organizationally tomorrow. It is also the spotlight that has been put on many of the employees there.

I once testified saying, you know, these are some of the most hardworking people I have ever had the pleasure to stand next to. And they are doing the best they can with the tools that they have been given. And many times, although FEMA is—needs to be criticized for its inability, because its lack of the programs to provide programs to provide timely response and recovery, as we experienced in Katrina, it is unfair, I think, to attack the individual employees, because they are just doing the best they can with the tools they have.

I once said you can't expect Hank Aaron to hit 755 homeruns with a Wiffle Ball bat. And that is what we have given these people. We just have not given them the tools to be able to do the job the best they can.

That is now changing. And I think we are heading—because of the reform act and because of the maturing that is taking place within DHS, in the way we are starting to work together as a team, we are starting to integrate.

What is discouraging now is the talk that, well, this may all come to an abrupt start and we may have to reorganize and start again. Everyone talks about the effect that has on FEMA; it is also having an effect on the people within DHS, because FEMA's tentacles—DHS's tentacles go into FEMA, but FEMA's tentacles also go into DHS. And it would hurt both sides and weaken both organizations if we reorganized at this point in time in our history.

Mr. CLEAVER. Thank you.

Mr. Kaniewski, this is not necessarily a policy question, but when you begin to read about the debate about FEMA, Homeland Security, inevitably you come up with the James Lee Witt discussion, where people will declare that he was the best director in the history of the agency and maybe the history of the planet, maybe the galaxy.

And I don't want to—I am not suggesting that he wasn't; I am saying that the only reason we know that Muhammad Ali was a great fighter was because he had a lot of fights. And the truth of the matter is, when Mr. Witt was there, we didn't have Katrina, Gustav. I mean, we didn't have these major events.

So it seems to me there is a leadership issue. I mean, obviously, they—to me, just reading about him, but he had enormous leader-

ship skills. But can the agency depend just on leadership skills or should there be policies in place so that, no matter who the leader is, that he or she will be able to keep the agency operating at the optimum level, instead of just depending on a person's leadership skills and Mr. Witt's unusual relationship with the White House?

I don't think we can discount that, that he had a personal relationship with the president, which also gave him access. That is about—the question went far longer than I intended, but—

Mr. KANIEWSKI. I think you summarized it very well. And, in fact, I agree with everything you said.

I think the leadership is a significant factor. And I think that both James Lee Witt and Dave Paulison were tremendous leaders and, you know, they have their—it shows.

I will also say their structure matters, in some sense. It matters that there are standard operating procedures, there are processes in place to address how FEMA should work in every disaster, because, without that, it is not going to be an effective organization. That is why I was so happy with PKEMRA.

Though FEMA was on its own, improving dramatically under Dave Paulison's leadership, my concern was, what happens when Dave Paulison leaves? What is going to be left behind? What organization is going to survive maybe without a leader like Dave Paulison?

I can say that things like PKEMRA are important. There is no question. I can also say that both Dave Paulison and James Lee Witt inherited a beleaguered organization. Remember, James Lee Witt got it right after Hurricane Andrew; Paulison took the reins right after Katrina.

So it is impossible for any of us to say, you know, what percentage each of these factors played, but leadership and the fact that a capable organization that is guided by statute that you guys put in place was very important.

Mr. CLEAVER. Thank you.

Thank you, Mr. Chairman.

Mr. CUELLAR. Thank you, Mr. Cleaver. The whole galaxy? Hey, I like that.

Mr. Cleaver, thank you very much, Ms. TITUS.

I want to thank all of you all for being here. The only thing, Mr. Skinner—, actually for all of you all, since you are all going to be—before you all walk out of the room, if you all can just talk about this.

I do want to just emphasize what Mr. Cao had talked about is—on the suggestions, give us some performance measures that measure results and not activity. As you know, there is a big difference between measures that count how many pencils we have out there than seeing the end result.

So I would ask you all to give us some performance measures that measure the results, also, so you give us suggestions.

Again, I want to thank you very, very much. If you can do this within 30 minutes—I mean, 30 days. And we want to do this—30 minutes would be beyond anything in this galaxy we can do this. But if I could have you work with our staff and, of course, the Republican staff, make sure we do this in a bipartisan way.

Again, I want to thank all the witnesses for the valuable testimony for being here, the members for their questions. The members of the subcommittee may have additional questions for the witnesses, and, again, we ask you to respond to them as soon as possible.

Hearing no further business, members, this meeting is adjourned. Thank you very much.

[Whereupon, at 11:36 a.m., the subcommittee was adjourned.]



# APPENDIX

## QUESTIONS AND RESPONSES

QUESTIONS FROM THE HONORABLE HENRY CUELLAR, CHAIRMAN, SUBCOMMITTEE ON  
EMERGENCY COMMUNICATIONS, PREPAREDNESS, AND RESPONSE

RESPONSES FROM RICHARD L. SKINNER

**Question 1.:** The Office of Inspector General has conducted a number of audits on FEMA since the passage of the Post Katrina Emergency Management Reform Act of 2006 (PKEMRA). **Based on this body of work, which specific PKEMRA provisions would you propose be amended?**

In our audit, Hurricane Katrina Multitier Contracts (OIG-08-81), we reported that prime contractors, rather than small businesses, were hired by the government to help repair the massive damage caused by Hurricanes Katrina and Rita. These prime contractors engaged smaller businesses, creating layers of subcontractors between the prime contractors and those actually performing the work. We reviewed the extent to which multitier subcontracting was increasing costs, limiting opportunities for local businesses, and resulting in layers of subcontractors being paid profits and overhead while adding little value to the work performed. Multitier subcontracting alone did not increase costs, and national prime contractors hired significant numbers of local businesses. It was not clear if such subcontractors profited without adding value to the contracts, because subcontractor invoices do not contain specific information on lower tier subcontractors.

Although Section 692 of the *Post-Katrina Emergency Management Reform Act of 2006* would limit subcontracting to 65% of total contract costs, nothing in this legislation specifically restricts the number of tiers of subcontractors. Further, by limiting subcontracting, Section 692 could restrict funding available to small and local businesses while potentially impairing FEMA's ability to respond quickly to future catastrophic disasters. The Department of Defense has promulgated less restrictive rules to control multitiering that reduce the risks inherent in Section 692. In our report, we recommended that FEMA officials work with DHS officials, the Office of Federal Procurement Policy and Congress to promulgate less restrictive rules over multitier contracting.

**Question 2.:** FEMA administers a complex web of grant programs that are sometimes overlapping.

**a. From the Office of Inspector General's vantage point, is the current grant structure the most efficient means of helping states and localities prepare for all-hazards incidents?**

**b. What recommendations do you have to improve the efficiency and effectiveness of homeland security and emergency management grant programs?**

Public Law 110-53, Implementing Recommendations of the 9/11 Commission Act of 2007, August 3, 2007, requires the Office of Inspector General to audit the State Homeland Security Program and Urban Areas Security Initiatives grants awarded to each state and territory at least once before August 3, 2014. The OIG is to report annually to Congress on the audits completed the prior fiscal year, and is required to address the effectiveness of the grants, specifically the extent to which funds awarded enhanced the ability of a grantee to prevent, prepare for, protect against, and respond to natural disasters, acts of terrorism and other man-made disasters. The first of these audits are expected to be completed in summer 2009.

Our office has also just begun an audit, "Efficacy of DHS Grant Programs" that specifically addresses the questions above. The objective of the audit is to determine whether the Federal Emergency Management Agency and other components of the department have identified and taken steps to mitigate restrictions, duplication, or

redundancy within the department's various grant programs that impede the ability of recipients to apply grant funds toward their most urgent homeland security and emergency management needs and priorities. We expect to issue a final report late in calendar year 2009. When this audit is completed, we will be in a position to make detailed recommendations that will help the agency in developing a more efficient and effective grants framework.

At this time, I can state from my experience that the current grant structure is generally unwieldy and difficult for our state and local homeland security partners to navigate. Additionally, DHS has not yet developed a structure of meaningful performance measures by which to determine the effectiveness of the grant funds. I would like to see DHS consolidate its grant programs to address all-hazards. I believe states should receive funding to put together comprehensive plans for homeland security and emergency management. Once our state and local partners develop a sound homeland security/emergency management plan, they would receive financial assistance to implement that plan from a single grant administered by FEMA. This would eliminate the need for jurisdictions to submit multiple grant applications to address various needs. The approved plan would serve as the baseline from which program officials could evaluate performance and measure progress, and additional financial assistance would be linked to outcomes addressing specific performance benchmarks.

**Question 3:** Under the National Response Framework (NRF), Federal agencies other than FEMA bear primary responsibility for certain functions.

- a. Has an assessment been conducted that tells us whether these other Federal agencies are fully prepared to carry out their responsibilities?**  
**b. How would you suggest such an assessment be conducted?**

Other than evaluations undertaken following Hurricane Katrina to assess federal, state and local response efforts, there has not been a comprehensive assessment to determine if federal agencies are fully prepared to fulfill their roles in emergency management.

We would suggest such an assessment be conducted under the auspices of the newly formed Council of Inspectors General for Integrity and Efficiency (CIGIE). This group was formerly known as the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency (PCIE/ECIE). In November 2006, the Inspections and Evaluations Committee of PCIE/ECIE prepared "An IG's Guide to Evaluating Agency Emergency Preparedness." This guide could be used to assess emergency management preparedness for each federal agency that has a role in the National Response Framework; we could then prepare a consolidated report to present findings systemic across the federal government. Our Office of Emergency Management Oversight is well positioned to lead this assessment through a CIGIE subgroup that we used to coordinate federal Inspectors General oversight of Hurricane Katrina disaster relief.

**Question 4:** PKEMRA contains a provision (SEC. 693—Oversight and Accountability of Federal Disaster Expenditures) that allows the FEMA Administrator to designate up to 1% of the total amount provided to a Federal agency for a mission assignment as oversight funds to be used by the recipient agency.

- a. Since this provision was enacted, to your knowledge has the FEMA Administrator designated such funds for oversight?**  
**b. If not, how does this impact your ability and the ability of other Inspectors General to properly provide oversight of mission assignment funding?**

Section 693 of PKEMRA, Oversight and Accountability of Federal Disaster Expenditures (6 U.S.C. 793), allows the FEMA Administrator to designate up to 1 percent of the total amount provided for a mission assignment as oversight funds. To date, the FEMA Administrator has not implemented this provision by providing a small percentage of mission assignment funding to ensure appropriate oversight.

Typically, the larger a disaster, the more funding FEMA provides to other agencies through mission assignments. However, those agencies' Offices of Inspector General do not receive additional funding to provide oversight of the mission assignment activities. This hampers OIGs' abilities to conduct appropriate oversight of federal disaster funds.

We would propose that Congress require the Administrator to provide such oversight funding by amending Section 693 of PKEMRA, changing the word *may* to *shall* in the first sentence of section (a): The Administrator *shall* designate up to 1 percent of the total amount provided to a Federal agency for a mission assignment as oversight funds to be used by the recipient agency for performing oversight activities carried out under the Agency reimbursable mission assignment process.

**Question 5.: What are the strengths and weaknesses of FEMA's use of Disaster Assistance Employees as a "surge capacity" force?**

FEMA's Disaster Assistance Employees (DAEs) are temporary employees deployed from a pool of candidates maintained by FEMA or hired as needed to provide a "surge capacity" in times of disaster. FEMA's permanent staff is not large enough, nor does it have the range of technical expertise needed, to respond to a catastrophic disaster, necessitating the use of temporary employees. Because DAEs do not always stay for the duration of the recovery, there is constant turnover of staff. FEMA must continually re-educate new disaster staff, which can lead to duplicate requests for documentation and varying interpretations of laws, regulations, policies, and procedures. This frustrates local government officials and often delays the recovery process.

Technically, DAEs are required to contact their FEMA cadre manager every 30 days to remain on the active list. Failure to report for duty once agreeing for service may be grounds for termination from the program. However, we know anecdotally that one of FEMA's frustrations is that some DAEs "pick and chose" their disasters. Because DAEs are temporary hires, when they are called, they have the option of turning down the assignment. This sometimes makes it difficult for FEMA to deploy enough DAEs quickly. FEMA also faces a management challenge in terms of incentivizing the DAE workforce because the more efficiently and effectively those workers complete their work, the sooner they are out of a job. This is an issue that bears further examination to find the right incentive structure in order to have a reliable surge workforce incentivized to do the best job possible.

**Question 6.: At its core, disaster response is a local and state responsibility. The Federal government's support, coordinated by FEMA, is meant to supplement state and local efforts when those entities become overwhelmed. Are states fulfilling their responsibilities with regard to ensuring they are prepared for future catastrophes?**

While we believe that FEMA is better prepared to handle future catastrophic events, we do not know whether the states are better prepared for such events. I agree with DHS Secretary Napolitano's remarks last month before the National Emergency Management Association when she said that the public perception of FEMA needs to change, that FEMA is not the first responder. That role belongs to local and state government. In responding to emergency situations, whether natural or man-made, current doctrine dictates that government agencies and organizations most local to the situation act as first responders. This means that state and local governments must invest in preparedness, but it is hard to get state and local governments to invest their limited funding in preparedness activities.

Based on my experience, I believe incentives are one of the best ways to get states to invest in something, even when they would rather spend their funds elsewhere. One option for providing such an incentive would be to tie states' investments in preparedness to their cost-sharing responsibilities after a disaster.

Under the Stafford Act, most federal assistance after a disaster comes with a requirement that the state provide a percentage cost-share, which in most cases is 25%. In recent disasters, this cost-share has sometimes been waived, with the federal government providing 100% of the funding. I believe 100% funding should rarely be used, and then only in truly catastrophic events. For other disasters, I believe we could incentivize states to invest in preparedness by predicating an increased percentage of federal funding based on pre-disaster preparations by the state that include having approved plans and approaches in place prior to a disaster. These could include:

- Administrative plans
- Mitigation plans
- Capability assessments
- Housing strategy including identification of group sites
- Evacuation plans
- EMACs/regional assistance plans

Ideally, states would engage in more preparedness because it is the right thing to do for their citizens. But I recognize that state legislators are faced with tough budget decisions. The right incentives could help them make the decision to invest more in disaster preparedness.

**Question 7.: Are there tools that the Office of Inspector General currently does not have that would increase your ability to perform your job?**

There are several important legislative changes that Congress could enact that would enhance my office's ability to fulfill our mission:

**1. DHS OIG Access to Contractor Records and Employees**

*A. Proposed language:*

SEC. \_\_\_\_ . The Inspector General Act of 1978, as amended, (5 U.S.C. App.), is amended by redesignating sections 12 and 13 as sections 13 and 14, respectively, and by adding the following new section:

Sec. 12. INSPECTOR GENERAL ACCESS TO CERTAIN RECORDS AND EMPLOYEES.

With respect to each contract or grant awarded using Federal funds, any representative of an appropriate Inspector General appointed under section 3 or 8G of the Inspector general Act of 1978, as amended, (5 U.S.C. App.), is authorized—

- (1) to examine any records of the contractor or any of its subcontractors, the grantee or any subgrantee, or any State or local agency administering such contract or grant, that directly pertain to, and involve transactions relating to, the contract, subcontract; grant, or subgrant; and
- (2) to interview any officer or employee of the contractor, subcontractor, grantee, subgrantee, or State or local agency regarding such transactions.

*B. Explanation / Justification*

Under the Inspector General Act of 1978, as amended, Inspectors General are tasked to conduct, supervise, and coordinate audits and investigations related to the programs and activities of Federal agencies. Because many agencies now rely so heavily on contractors to carry out their programs and activities, the Inspectors General require more and greater access to contractor employees and records. Likewise, the amount of Federal dollars awarded through grants has increased significantly since fiscal year 2000. Grant spending averages almost 20 percent of total Federal spending, slightly more than contract spending. Delays in responding, failures to provide complete responses, and refusals to respond to Inspector General requests for contractor and grantee documents and for interviews of employees disrupt the work of the Inspector General.

Inspector General subpoenas issued pursuant to section 6(a)(4) of the Inspector General Act, as amended, and enforceable in United States district courts are the most commonly used and versatile tool in investigating civil fraud cases. They are limited to documentary or other tangible evidence. The Inspector General has no similar authority to obtain interviews of contractor and grantee employees. Many fraud, waste, and abuse matters are brought against companies, and being able to compel interviews from employees or other witnesses during investigations, audits, and inspections, would be invaluable in detecting fraud, waste, and abuse.

In a report issued by the DHS Inspector General, *Acquisition of the National Security Cutter, U.S. Coast Guard, OIG-07-23*, the office describes the impediments experienced in obtaining access to contractor employees and records related to the particular audit. At one point, audit fieldwork was suspended until access issues could be resolved. Because of the burdensome procedures imposed by the contractors involved and the refusal of the contractors to allow the Inspector General unsupervised access to contractor employees most knowledgeable of the design and performance issues of the cutter, the Inspector General was denied the benefit of those informed perspectives. These hurdles are unacceptable in light of the statutory mandates on Inspectors General; the critical importance of Federal programs and activities; and the expenditure of billions of taxpayer dollars that are invested with contractors to provide the Government needed goods and services and with grantees to achieve defined public purposes.

**2. Enhanced OIG Authority for Computer Matching**

*Proposed Language:*

Notwithstanding 5 U.S.C. § 552a, the Department of Homeland Security Inspector General may match any Federal or non-Federal records while conducting an audit, inspection, or investigation authorized under the Inspector General Act of 1978, as amended, to identify control weaknesses that make a program vulnerable to fraud, waste, or abuse and to detect improper payments and fraud.

*Explanation / Justification:*

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503) (CMPPA), as amended, revised the Privacy Act to add procedural requirements that agencies must follow when matching electronic databases. The requirements include formal matching agreements between agencies, notice in the Federal Register of the agreement before matching may occur, and review of the agreements by Data Integrity Boards at both agencies. While CMPPA provides an exemption to law enforcement from these administrative requirements, the exemption applies only when a specific target of an investigation has been identified. Moreover, the Government Accountability Office, as an arm of the Legislative Branch, is not subject to CMPPA.

The legislative history of CMPPA identifies Inspectors General as among the earliest users of computer matching as an audit tool to detect fraud, error, or abuse in Federal benefit programs. Interagency sharing of information about individuals can be an important tool in improving the integrity and efficiency of government programs. By sharing data, agencies can often reduce errors, improve program efficiency, identify and prevent fraud, evaluate program performance, and reduce the information collection burden on the public by using information already within government databases.

The work of the Department of Homeland Security (DHS) Inspector General in identifying control weaknesses within agency programs and detecting fraud would be facilitated by expanding the current law enforcement exemption to permit the Inspector General, as part of audits or inspections, not only targeted investigations, to match computer databases of Federal and non Federal records. Because the Inspector General rarely controls the databases to be matched, much effort and time is involved now in encouraging the agency system managers that matching is appropriate and necessary and to cooperate with the Office of Inspector General (OIG) to fulfill the CMPPA administrative requirements. This allows agencies to delay, and even obstruct, legitimate OIG oversight because the OIG is dependent on the cooperation of the agencies to meet the CMPPA requirements.

Even though the Inspectors General at the Department of Homeland Security, Department of Agriculture, Department of Housing and Urban Development, and the Small Business Administration pursued computer matching agreements in the aftermath of Hurricane Katrina to facilitate audits and investigations, only one agreement was executed. In June 2006, almost 10 months after Hurricane Katrina struck, the Department of Housing and Urban Development successfully executed a computer matching agreement with the Federal Emergency Management Agency. The absence of computer matching agreements forced the Hurricane Katrina Fraud Task Force to rely on manual record searches to detect improper payments and fraud. The authority to conduct data sharing would have greatly enhanced the DHS OIG's ability to quickly begin review of hurricane victim assistance programs to detect internal control weaknesses and fraud before benefits were issued.

